SIERRA CLUB, CENTRAL PLANNERS, SPRAWL, AND "SMART GROWTH"—PAGES 1, 9-11

Environment & Climate News

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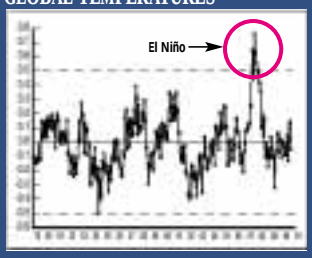
Is *this* global warming?

GLOBAL TEMPERATURES



Each month, *Earth Track* updates the global averaged monthly satellite measurements of the Earth's temperature. *See page 13*

A win for private landowners

BY JAMES M. TAYLOR

The U.S. Supreme Court gave a Rhode Island landowner a victory on two important Fifth Amendment Takings Clause issues and remanded a third issue for further review in the Rhode Island state courts.

In *Palazzolo v. Rhode Island*, SCt Dkt No 99-2047, the Court ruled landowners need not engage in myriad time-consuming and futile administrative challenges prior to pursuing a takings claim in state and federal courts. The Court further ruled a property owner does not lose the right to pursue a takings claim simply because the state imposed a regulatory taking on the property before the owner acquired legal title.

Finally, the Court remanded to the Rhode Island state courts the issue of whether a property owner whose land value plummeted from $3 million to $200,000 as a result of state regulation suffered a regulatory taking entitling him to just compensation.

A major victory

The Court's ruling on the first two issues represented a significant victory for private citizens. The U.S. Supreme Court had not previously ruled on either issue, but the Rhode Island State Supreme Court had ruled emphatically against property owners on both.

Had the U.S. Supreme Court upheld the state court's ruling, property owners would face years and potentially decades of administrative obstacles before securing the right to challenge unconstitutional takings of property in state and federal courts. Upholding the Rhode Island decision also would have validated improper government takings simply because an initial property owner did not act quickly enough or steadfastly enough in pursuing and concluding an exhaustive legal battle with the state.

The court's remand of the third issue, whether regulations causing a 93 percent diminution of a landowner's property value represent a regulatory

LANDOWNERS continued on page 6

Cars and people move through Calcutta, capital of India's West Bengal state, the most-dense region in that country of 1.027 billion people. The Sierra Club is promoting so-called "smart growth" policies that would make cities in the United States even more dense. *Reuters/Jayanta Shaw*

Sierra Club exposes "smart growth" madness

Web site reveals adverse environmental, social impacts of high population density

BY RANDAL O'TOOLE

How dense is dense enough for smart growth? Smart-growth advocates in Minnesota's Twin Cities (average density: 1,800 people per square mile) say the Twin Cities area needs to be as dense as Portland (average density: 3,000 people per square mile).

Smart-growth advocates in Portland say Portland needs to be as dense as Los Angeles (average density: 5,600 per square mile). Smart-growth advocates in Los Angeles say Los Angeles needs to be as dense as Chicago (average density: 12,000 people per square mile).

Smart-growth advocates in Chicago say Chicago should be as dense as San Francisco (average density: 16,000 people per square mile). Smart-growth advocates in San Francisco want the city to be even denser still.

Where will it all end?

What's *your* preferred density?

Fortunately for a puzzled nation, the Sierra Club has answered this question in a Web page that calculates the "environmental impacts of density": http://www.sierraclub.org/sprawl/community/enviroimpacts.asp. You enter your preferred density in households per acre along with your idea of average automobile fuel efficiency (miles per gallon) and the price of gasoline. The Sierra Club then projects the environmental and social impacts of your density. For comparison, it includes the environmental and social impacts of the "efficient urban density" and a "sprawl density."

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Bonn delegation passes "Kyoto lite"

U.S. still opposed: Supporting science is suspect, flaws remain

BY JAMES M. TAYLOR

Enacting many of the changes previously insisted upon by U.S. President George W. Bush, delegates to the Bonn global warming talks agreed on July 23 to a revised Kyoto agreement for the curtailment of greenhouse gases.

Bush, however, maintained his opposition to the revised Kyoto agreement, which still left many American concerns unaddressed. Depending on the source, the Bonn agreement was described as both a defeat and a victory for Bush.

Significant changes demanded

In August, the Senate Foreign Relations Committee voted unanimously to affirm its 1997 resolution opposing the Kyoto Protocol. The Protocol would have required the world's industrialized nations by the year 2012 to cumulatively reduce greenhouse emissions to 5.2 percent below 1990 levels, with each nation having its own negotiated requirement. The U.S. Senate had objected to many of Kyoto's provisions, including:

- Its failure to give nations credit for emissions-capturing forests and other carbon "sinks;"
- Its refusal to allow nations to trade or purchase emissions credits;
- Its designation of 1990 as the base year for emissions calculations;
- Its failure to apply to China, India, and

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International praise for genetically improved foods

United Nations, World Conservation Union document the benefits of biotech

BY JAMES M. TAYLOR

As research continues to show the benefits of genetically improved human food products, biotech foods recently gained highly visible support from two key sources.

The United Nations on July 9 issued *Making New Technologies Work for Human Development*, a 278-page report calling for more widespread use of genetically improved foods. The UN analysis follows close on the heels of a World Conservation Union report finding that bio-engineered crops are essential to preserving world wildlife.

UN: Biotech to fight malnutrition

The UN report chastises Western anti-technology groups for impeding the development and distribution of genetically modified foods. Mark Malloch Brown of the United Nations Development Program, the UN agency that issued the report, stated that genetically modified staple crops such as rice, millet, and cassava are absolutely necessary to fight malnutrition throughout the world.

"These varieties have 50 percent higher yields, mature 30 to 50 days earlier, are substantially richer in protein, are far more disease and drought tolerant, resist insect pests, and can even outcompete weeds," noted Brown.

"The developing world needs these technologies as soon as possible," declared Sakiko Fukada-Parr, lead author of the UN study. "The first thing to remember is that the scientific evidence for health and environmental harm is quite limited and very weak," she said, challenging biotech opponents to produce any scientific evidence justifying their campaign against genetically improved foods.

By impeding the use of genetically improved foods, the anti-technology lobby "risks marginalizing itself and denying developing countries opportunities that, if harnessed effectively, could transform the lives of poor people and offer breakthrough development opportunities to poor countries," the UN report states.

WCU: Biotech for land preservation

The World Conservation Union issued in May *Common Ground, Common Future*, a joint report with Future Harvest (representing Third World agricultural researchers). The report's authors, Jeffrey A. McNeely and Sara J. Scherr, conclude that high yields resulting from genetically improved crops and modern farming technology would benefit the environment by allowing more land to be preserved as wildlife habitat.

Without the benefit of modern Western farming technology, McNeely and Scherr note, Third World nations must devote more

BIOTECH continued on page 3

Corn scare proves baseless

Government researchers have released test results showing that last year's media scare involving genetically modified corn was unwarranted.

On June 11, the Centers for Disease Control and Prevention (CDC) released a study showing that StarLink, a variety of corn engineered to contain a protein that protects corn crops from insects, produced absolutely no adverse effects after briefly entering a variety of human foods.

The federal government had approved StarLink for domestic livestock consumption, but had yet to approve it for human consumption at the time it inadvertently entered human foods. Before approving StarLink for human consumption, the government wanted to be sure that a certain slow-dissolving protein in StarLink would not cause an allergic reaction in allergy-sensitive consumers.

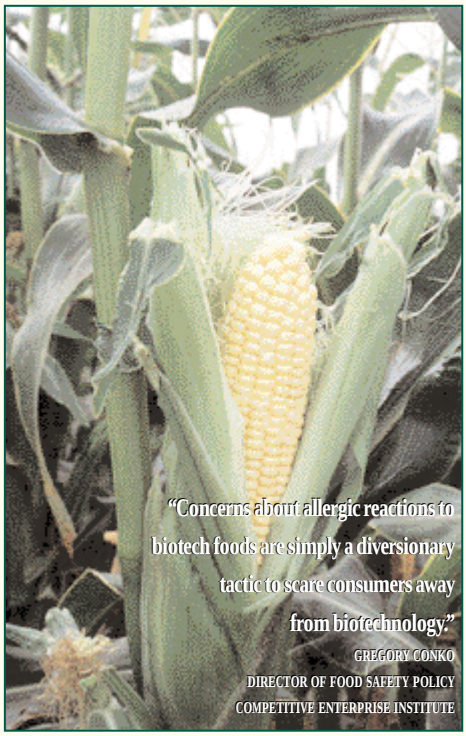
Last October, a group opposed to bio-improvement of human foods reported that StarLink was present in numerous human food products. As a result, Aventis CropScience, the maker of StarLink, faced numerous lawsuits and was forced to spend millions of dollars to buy back products made with StarLink.

After the media gave heavy coverage to the report of StarLink in human foods, 51 people reported to the Food and Drug Administration they had gotten ill after eating foods containing StarLink. Of those 51, only 28 showed symptoms of an allergic reaction. Of those 28, 17 agreed to submit blood samples to the Centers for Disease Control and Prevention to determine if StarLink was to blame.

Although CDC researchers confirmed that all 17 people had indeed suffered some type of allergic reaction, they nevertheless discovered proof that StarLink was not to blame. None of the 17 had developed antibodies to StarLink's Cry9C protein, which would have occurred had StarLink caused the reaction. Therefore, CDC concluded not a single person nationwide had demonstrated any allergic reaction to StarLink.

"We found no evidence in any of the samples of hypersensitivity to the Cry9C protein," concluded CDC epidemiologist Dr. Carol Rubin.

Biotechnology scientists were not surprised by the CDC testing results. "Testing the blood of persons who complained of allergic reactions to StarLink was a fool's errand from the beginning," stated Dr. Henry Miller, senior research fellow at Stanford University's Hoover Institution and former director of the FDA's Office of Biotechnology. "We need to remember that these people were eating foods comprised of literally millions of proteins, many of which are known to be allergenic." A person eating a taco shell made with StarLink would be far more likely to have an allergic reaction to the natural proteins in any of the taco's ingredients than to have an allergic reaction to the StarLink in the shell.


"Concerns about allergic reactions to biotech foods are simply a diversionary tactic to scare consumers away from biotechnology."
GREGORY CONKO
DIRECTOR OF FOOD SAFETY POLICY
COMPETITIVE ENTERPRISE INSTITUTE

"Concerns about allergic reactions to biotech foods are simply a diversionary tactic to scare consumers away from biotechnology," added Gregory Conko, director of food safety policy at the Competitive Enterprise Institute.

"All of our experience to date, without exception, confirms the safety and the value of genetically modified foods," agreed Val Giddings, vice president of food and agriculture with the Biotechnology Industry Organization.

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BIOTECH continued

land for farming than would be necessary if they utilized genetically improved crops and other high-yield farming technology.

"By impeding the use of genetically improved foods, the anti-technology lobby 'risks marginalizing itself and denying developing countries opportunities that . . . could transform the lives of poor people . . .'"

UNITED NATIONS "MAKING NEW TECHNOLOGIES WORK FOR HUMAN DEVELOPMENT"

For more information...

WWW A table of contents for the July United Nations report, *Making New Technologies Work for Human Development*, is available on the Internet at **http://www.undp.org/hdr2001/**. The full 278-page text of the report is available, in Adobe Acrobat's PDF format, at **http://www.undp.org/hdr2001/complete.pdf.**

A news release announcing the May issuance of the IUCN/Future Harvest report, *Common Ground, Common Future*, is available on the Future Harvest Web site at **http://www.futureharvest.org/earth/biodiversityen.shtml**. The full text is available as a PDF file at **http://www.futureharvest.org/pdf/biodiversity_report.pdf.**

Observed Dennis Avery, director of global food issues for the Hudson Institute, "Until now, eco-groups have been marching lockstep in support of the myth that organic farming can feed the world while protecting wildlife from harsh agricultural chemicals. But organic farmers' yields are little more than half as high as those of conventional modern farmers." As a result, Avery notes, farmers must increase their acreage and drive out a significant amount of threatened wildlife.

"Whether the world supports or hamstrings high-yield farming in the 21st century is the biggest wildlife conservation issue facing the world," Avery added.

Anti-technology lobby continues attacks

Despite the conclusions of the two recent studies, the anti-technology lobby continues to press for a ban on genetically improved crops. Ignoring the UN findings, Adam Hurtler, a spokesman for a group of street demonstrators protesting a biotech conference in San Diego, maintained, "The biotech industry is seizing control over our bodies, our futures, our food. . . . We have enough food. We have enough medicine. The real roots of the global health crisis are inequality and injustice, and that's what biotech industry is perpetuating."

At the same time, the California Public Interest Research Group issued a report calling for a ban on all field testing of genetically improved crops, citing environmental and human health concerns.

"It is unbelievable that this report is being put out there as some type of news by this organization," countered Lisa Dry of the Biotechnology Industry Organization. Dry noted that biotech crops comply with strict standards set by the Food and Drug Administration, the Environmental Protection Agency, and the Department of Agriculture.

Henry Miller, a senior research fellow at Stanford University's Hoover Institution and former director of the FDA's Office of Biotechnology, also was unimpressed by the anti-technology argument. Miller noted that in years of testing, genetically improved test crops have not caused any environmental or health problems. Moreover, genetically improved foods could fight serious human health problems such as heart disease.

"Asking for a moratorium on field testing of gene-spliced plants is tantamount to asking for a moratorium on antibiotics or blood transfusions," Miller said.

EPA Administrator Christine Todd Whitman inherited a Superfund program with a backlog of work to complete and new projects to start. Resources for the Future estimates Superfund "will cost between $14 billion and $16 billion from fiscal years 2000 through 2009."

EPA needs more money, study says

After 20 years of often-controversial efforts to clean up environmental hazards, the Environmental Protection Agency requires more money for a host of current and future Superfund activities, concludes a Congressionally commissioned study by Resources For the Future (RFF).

"It's just not realistic to think the costs of Superfund are going to decline much in the next 10 years," stated Katherine Probst, coauthor of the study. "Though our study does not address whether or not the now-expired taxes that stocked the Trust Fund should be reimposed, it's clear there's not enough money left to pay for 10 more years of EPA work."

For more information...

WWW on the federal government's Superfund program, search *PolicyBot*, The Heartland Institute's free online research service. Forty-five documents there address Environment - Hazardous Waste and Superfund.

From Superfund's inception through 1995, industries presumed to have been responsible for sites on the Superfund list were taxed roughly $1.3 billion per year to finance Superfund activities. In 1996 the tax was eliminated, and Superfund activities have since been financed by the pre-1996 surplus and general federal revenues.

The RFF study, *Superfund's Future: What Will It Cost?* estimates Superfund activities will cost between $14 billion and $16 billion from fiscal years 2000 through 2009. Congress asked RFF to estimate future Superfund costs amid continuing debate over whether and how to reauthorize the program.

Opponents of reinstating the industry Superfund tax had hoped EPA revenue needs would decline as an increasing number of Superfund sites were cleaned up and removed from the list. However, the RFF report found that roughly half the sites listed as completed by the EPA in fact still had work to do. Moreover, 61 additional sites have been proposed for Superfund, and still more are being proposed every year.

"Clearly, EPA needs to improve the quality of the five-year review process and clarify just what it means to have a protective remedy," the report stated. Similarly, "Congress needs to clarify the role and priorities of the National Priorities List," said Probst.

"Currently, a wary truce exists between those who would leave [Superfund] liability and cleanup provisions intact and those who do not want to reinstitute the authority for the taxes that filled the coffers of the trust fund," the study reported.

Senator Larry Craig (R-Idaho) agreed Congress is not inclined to have a large Superfund debate this year. "I don't see the time or the politics to allow it this year. Given the stalemate, we will probably work on it piece by piece."

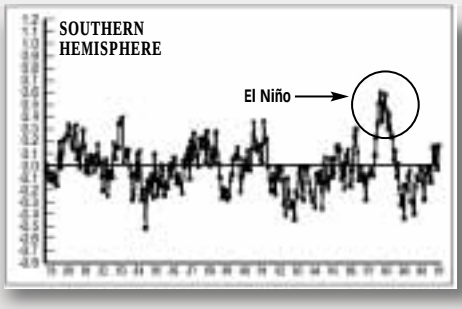
EARTH TRACK

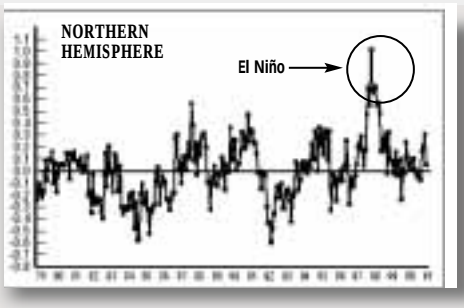
JUNE 2001

The global average temperature for June, shown on page 1, was 0.137˚C above normal. The Southern Hemisphere's temperature departure, shown below, was 0.033˚C below normal; the Northern Hemisphere's, below right, was 0.307˚C above normal.

Each month, Earth Track *updates the global averaged monthly satellite measurements of the Earth's temperature. These numbers are important because they are real—not projections, forecasts, or guesses.*

Global satellite measurements are made from a series of orbiting platforms that sense the average temperature in various atmospheric layers. Here, we present the lowest level, which climate models say should be warming. The satellite measurements are considered accurate to within 0.01°C.





The data used to create these graphs can be found on the Internet at *http://vortex.nsstc.uah.edu/data/msu/t2lt/t2ltglhmam.d.*

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KYOTO continued from page 1

other "less-developed" nations; and
- Its strict and legally binding enforcement provisions.

In March 2001, Bush notified Kyoto delegates the U.S. was withdrawing from the Kyoto Protocol based on the above concerns, as well as concerns regarding the uncertain scientific case for global warming and the protocol's potentially devastating effects on the American economy. Bush pledged America would undertake further research into global warming issues and work to reduce greenhouse gas emissions under a more flexible and economically rational framework.

Following Bush's announcement, nations such as Japan, Russia, Canada, and Australia expressed a similar reluctance to ratify Kyoto. The Bonn agreement brought those nations back into the fold by conceding to some, but not all, of the objections those nations shared with the United States.

Under the revised agreement, the carbon-absorbing effects of forests will, to a certain degree, be permitted to offset the emissions produced by participating countries. (An important catch, however, is only forests planted after 1990 will count against greenhouse emissions calculations.) The revised agreement also allows nations to trade emissions credits and drops legally binding penalties for noncompliance.

Despite the revisions, many of Bush's concerns remain. Crediting only those forests planted after 1990 does little to reflect each nation's cumulative carbon dioxide absorption. Although the United States produces more greenhouse gases than other nations, its vast forests, plains, and croplands recapture a significant amount of those gases. Western Europe, with comparatively few such carbon sinks, has successfully excluded sinks from net emissions calculations even under the revised agreement.

Even some Third World nations exempt from Kyoto's emissions limits expressed skepticism over the fairness and scientific justification for the prohibitions. Costa Rican President Miguel Angel Rodriguez, for example, told reporters the carbon-sequestering effects of forests should be included in any calculation of a nation's emissions and that nations should be able to trade credits for carbon sinks.

"We understand the problems the United States has with Kyoto," Rodriguez said. "There is very little cost to Europe, but a very large cost to the United States."

The Bush administration is similarly concerned with the revised agreement's failure to place restrictions on many "less-developed nations." China, for example, is the world's second largest greenhouse gas emitter but faces no limitations under Kyoto. India similarly emits large amounts of greenhouse gases and faces no Kyoto restrictions.

Bush officials also object to the retroactive designation of 1990 as the greenhouse emissions base year. Emissions goals should be calculated in relation to the date of agreement rather than to the politically motivated 1990 designation, reason Bush officials. Explained James Glassman of the American Enterprise Institute, "Europe gets credit for the large reductions in carbon dioxide that occurred in the 1990s in Britain (which switched from coal to gas for economic reasons, largely because of North Sea finds) and in Germany (which benefits from the post-reunification shutdown of inefficient, mainly coal-fired factories in the former East Germany). As a result, Europe reduced its overall emissions between 1990 and 1999 by 4 percent, toward a target of 8 percent below 1990 levels. The U.S., with a target for reductions of 7 percent, has increased its emissions 30 percent."

Defeat or victory?

Kyoto advocates heralded the revised agreement as a defeat for Bush. "The world has defied George W. Bush on climate change," boasted Jennifer Morgan, climate change director for the World Wildlife Fund.

"It shows that George Bush is totally isolated in the climate debate," added Greenpeace climate analyst Bill Hare.

To the contrary, others pointed out that while the revised agreement is still unacceptable to the Bush administration, the President's steadfastness produced tangible results. A July 24 *New York Times* house editorial noted Bush's influence on smoothing at least some of Kyoto's rough edges. "The huge irony is that this agreement was tailored in many respects to American specifications," stated the *Times*.

Added Chris Horner, adjunct analyst for the Competitive Enterprise Institute, "the EU did indeed abandon rigidity on certain issues that until this week they maintained were essential for the treaty to possess 'environmental integrity.'"

Even so, Bush remained opposed to the agreement after many other American concerns went unaddressed. "I don't believe that it is a surprise to anyone that the United States believes that this particular protocol is not in its interests, nor do we believe that it really addresses the problem of global climate change," stated National Security Advisor Condoleeza Rice.

"This does not change our view the Kyoto Protocol is not sound policy," added Paula Dobriansky, America's Bonn delegation chief.

New studies cast doubt on Kyoto

As the world's nations debated the fate of Kyoto, several new studies cast doubt on the science and economic reasonableness of the measure.

A study in the May 17 issue of *Nature* demonstrated that atmospheric carbon dioxide emissions were far greater in the past than they are today, yet the much-hyped runaway greenhouse effect did not occur.

The *Nature* study noted that atmospheric CO_2 concentration is currently 370 parts per million. The study's authors constructed a record of CO_2 concentrations during the past 300 million years and discovered that CO_2 levels typically ranged from 1,000 to 2,000 ppm during the period. The two periods of CO_2 concentrations below 1,000 ppm corresponded with ice ages. Viewed against the Earth's recent natural history, the industrial era's increase in CO_2 concentrations from 280 ppm to 370 ppm is hardly alarming.

KYOTO continued on next page

Global warming the Rosetta stone of anti-technology movement

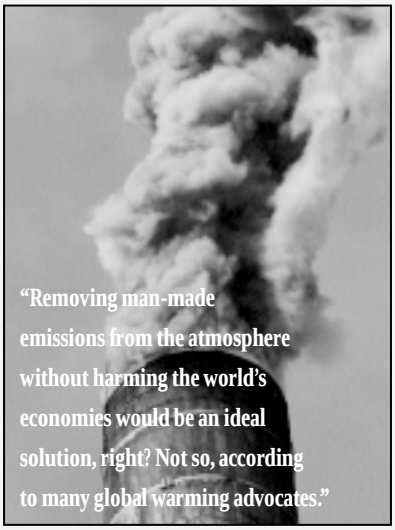
What if mankind developed a simple, economically efficient method of sequestering greenhouse emissions? Removing man-made emissions from the atmosphere without harming the world's economies would be an ideal solution, right? Not so, according to many global warming advocates.

Oceans, forests, soils, assorted plant life, and even sand and rocks tend to absorb carbon dioxide from the atmosphere, reducing the effects of mankind's greenhouse gas emissions. According to studies by Princeton University researcher Stephen Pacala, America's forests, crops, and rivers alone absorb up to half of our nation's greenhouse emissions. Moreover, factoring in the rest of North America, our continent's biosphere absorbs roughly three-fourths of our greenhouse emissions. Through the use of modern technology, it may be possible to sequester most or all of the remaining CO_2 emissions.

During the Clinton administration, Department of Energy Secretary Bill Richardson proposed carbon sequestration as a viable strategy to combat global warming. The Energy Department is spending $29 million this year to study sequestration, and is asking for additional funds in the years to come.

How would sequestration be accomplished? Doug Carter, who directs the Energy Department's Office of Planning and Environmental Analysis, proposes numerous options. According to Carter, the following alternatives are under study as viable solutions:

- Oil fields: Oil workers frequently inject carbon dioxide into oil wells to aid oil recovery. The carbon dioxide is injected under oil reservoirs between layers of rock, forcing the oil above it to rise toward the surface. Currently, oil workers seek to recover the most oil with the least amount of carbon dioxide. "We'd want to completely flip that around," states Sally Benson, a researcher at the Lawrence Berkeley National Laboratory.
- Soil: Plants absorb carbon dioxide from the air and pass it into the soil through their root systems. In agricultural areas, much of the carbon dioxide is later released into the air when farmers plow their fields. The agricultural and energy industries have devised a farming style that requires less plowing, resulting in additional carbon sequestration.
- Coal seams: Much like the case with oil fields, injection of carbon dioxide into coal seams can assist recovery of deep coal deposits. Coal sequestration produces additional energy while reducing atmospheric CO_2.
- Sandstone: Natural gas producers in the North Sea off Norway currently extract carbon dioxide from the natural gas they recover and, instead of letting it escape into the air, inject it into porous sandstone 3,000 feet below the Earth's surface. Carbon dioxide can similarly be injected into briny water deposits 2,000 feet below the Earth's surface. Either strategy sequesters the greenhouse gas underground for eons.



"Removing man-made emissions from the atmosphere without harming the world's economies would be an ideal solution, right? Not so, according to many global warming advocates."

So, what's the catch? The catch is global warming is the Rosetta stone of the anti-West, anti-technology, anti-globalization movement. Observes Christopher Dickey of *Newsweek*, "Without global warming, the growing protest movement against 'globalization' would be even less coherent than it already is. Because this slow-motion apocalypse can be traced to enormous multi-national corporations, who market the fossil fuels that generate carbon dioxide, it is a perfect unifying force for global protest. And activists know it."

Prior to the global warming scare, notes prominent American environmentalist Jeremy Rifkin, "environmental issues, and economic and social issues, could for the most part be addressed regionally and locally. Here we had a situation where the whole globe was affected."

For as long as global warming is seen as a serious problem whose solution mandates the curtailment of industrial activity, the anti-West, anti-technology, anti-globalization movement has a meal ticket for its ulterior motives. Feasible carbon sequestration as a solution to global warming destroys that meal ticket.

"Carbon sequestration could offer one of the best options for reducing the buildup of greenhouse gases, not only in this country, but in China, India, and elsewhere," observed former Secretary Richardson. But in a joint statement, Greenpeace and the World Wildlife Fund opposed this promising solution as a potential excuse for Western nations to preserve our industrial society.

"Sucking carbon out of the atmosphere is not the same as preventing it permanently from leaving the exhaust pipe or power plant," stated WWF climate change director Jennifer Morgan.

"Every ton of sequestered carbon that is allowed . . . would allow an additional ton of fossil fuel use," added Greenpeace climate change director Bill Hare.

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House subcommittee approves tighter fuel economy mandates

BY JAMES M. TAYLOR

In a blow to large families and vehicle safety proponents, the House Energy and Air Quality Subcommittee voted 29-3 on July 12 to increase Corporate Average Fuel Economy (CAFE) standards for light trucks (including sport utility vehicles, mini-vans, and pickup trucks).

The measure was expected to clear the House Committee on Energy and Commerce easily and will be sent to the House floor, where the subcommittee's broad bipartisan support virtually assures passage by the full House. Congressional Republicans say they expect the Bush administration to approve the new standards this fall.

Light trucks must average 20.7 miles per gallon under current CAFE standards. While the pending measure does not specify the exact average mileage that light trucks will soon have to meet, it does require the vehicles to save five billion gallons of gasoline between 2004 and 2010. General Motors, Ford, and DaimlerChrysler, the companies most affected by the proposed regulations, would be given some flexibility in meeting the savings target. Experts expect the new standard will require a fuel-efficiency increase of three to four miles per gallon.

The proposed standard represents a compromise that may have staved off more severe standards proposed by opponents of the automobile industry. Even so, the results may be severe.

For more information...

WWW An abstract of Leonard Evans' "Causal Influence of Car Mass and Size on Driver Fatality Risk" is available on the Web site of the American Public Health Association at **http://www.apha.org/journal/abstracts/july01/ab2jul01.htm.**

Downsizing is deadly

Studies have shown that tighter CAFE standards invariably lead to smaller and lighter vehicles, which in turn reduce vehicle safety. For example, a 1994 study by the Insurance Institute for Highway Safety found that occupants of vehicles with a 95-inch wheelbase were more than twice as likely to die in car accidents than occupants of vehicles with a 114-inch wheelbase.

More recent studies have confirmed the safety benefits of larger vehicles. A study by Dr. Leonard Evans, reported in the July 2001 *American Journal of Public Health*, concluded that drivers of larger vehicles are much more likely to survive a crash than drivers of smaller vehicles. "The implication is clear that policies, such as CAFE, which lead to reductions in car weight inevitably increase traffic deaths," wrote Dr. Evans. "The study provides more specific direct evidence that 'CAFE' kills."

Observed Sam Kazman, general counsel with the Competitive Enterprise Institute, "Safety researchers have long understood that downsizing is deadly. Dr. Evans' latest study, however, adds a new level of detail to the size-safety issue. The notion that we can mandate more stringent CAFE standards without increasing traffic deaths is simply preposterous, and this study confirms that."

In June 13 testimony before a House Ways and Means subcommittee, Alliance of Automobile Manufacturers President and CEO Josephine Cooper had urged Congress to encourage higher fuel efficiency through voluntary incentives rather than more restrictive CAFE mandates. Cooper noted the top 10 most fuel-efficient vehicles account for less than 2 percent of total vehicle sales.

> **"Increasing CAFE standards will require automakers to produce less of the products that American consumers are actually purchasing today and more of the products that are in lower demand."**
>
> JOSEPHINE COOPER
> PRESIDENT AND CEO
> ALLIANCE OF AUTOMOBILE MANUFACTURERS

"Increasing CAFE standards will require automakers to produce less of the products that American consumers are actually purchasing today and more of the products that are in lower demand," Cooper noted.

Voluntary incentives more effective

"A better way to improve vehicle and fleet fuel economy," observed Cooper, "and one that is more in tune with consumer preferences, is to encourage the development and purchase of advanced technology vehicles (ATVs). . . . Americans place a high priority on performance, safety, space, and other issues with fuel economy ranking much lower even with today's gas prices. ATVs hold great promise for increases in fuel efficiency without sacrificing the other vehicle attributes consumers desire. Just as important, the technology is transparent to the customer."

Cooper pointed out that automobile manufacturers have already invested billions of dollars in developing advanced technologies such as hybrid fuel cells and alternative energy sources even without the mandates of more stringent CAFE standards. Cooper said voluntary incentives associated with ATVs would be a more effective, and less intrusive, means of encouraging greater fuel efficiency.

In the end, however, Congress appears ready to impose heightened CAFE requirements. "The good news is that this is in play," said Dan Becker of the Sierra Club. "We are headed for a floor vote for the first time in a long time."

KYOTO continued

Additionally, the Greening Earth Society reported on June 26 that CO_2 concentrations increase on a linear rather than exponential basis with the addition of new greenhouse gas emissions. According to the study, "The implications of this are enormous. Instead of the steady increase in temperatures that climate models produce in assuming an exponential increase in CO_2 concentration, we are left with a situation where the temperature increase slowly damps off once the climate models are forced with a linear (rather than exponential) increase in CO_2. This is a consequence of the percentage increase in CO_2 concentration slowly decreasing over time. Therefore its total impact becomes less."

As a result of the linear CO_2 equation, the Greening Earth Society expects a warming of no more than a degree or two over the entire next century, if any warming occurs at all.

Dr. Bjorn Lomborg, an associate professor of statistics at the University of Aarhus in Denmark and a former member of Greenpeace, agrees that global warming theory greatly exaggerated the effect of CO_2 emissions. In *The Skeptical Environmentalist*, he concludes, "The cost of limiting carbon dioxide emissions far outweighs the damage that global warming will eventually do to the world and merely postpones the problem for six years," Lomborg noted.

According to Lomborg, mankind would reap far greater benefits by investing emissions reduction money into other programs. By focusing efforts on an exaggerated global warming problem rather than other efforts to benefit humanity, "trillions of pounds that might otherwise be spent on fighting poverty and malnutrition and improving infrastructure in developing countries will be wasted."

If Kyoto is implemented, added Lomborg, "millions of lives will be lost that could otherwise be saved and the eventual impact of climate change on the Third World will be much worse as countries will be less equipped to adapt."

Kyoto costs underestimated

Adding to Lomborg's warnings about the economic and human costs of Kyoto, economists from the former Clinton White House have admitted they drastically underestimated the costs of implementing Kyoto.

In 1997, while Kyoto was being negotiated, the Clinton White House estimated implementation would cause most Americans to pay an extra $100 per year in energy bills, an extra six cents a gallon for gasoline, and about $10 billion per year for the nation as a whole.

However, Clinton's environmental economists based their predictions on a number of factors that have not come to pass. For example, they assumed China and India would accept mandatory emissions caps. Neither country has done so. They also assumed nations could engage in an international emissions trading system. European opposition has to-date killed emissions trading as well.

"We always thought the (emissions) targets were very ambitious," stated Joseph Aldy, who helped formulate estimates for the Clinton administration. "But the thing that made us really uneasy about our analysis . . . was that if our assumptions didn't come true, you could come out with costs that were much, much higher."

> **"According to the Department of Energy, gasoline prices alone would rise 66 cents per gallon as a result of Kyoto. The U.S. Energy Information Administration (EIA) estimates an even higher spike in gasoline prices, at roughly . . . 75 cents per gallon."**

How much higher? According to the Department of Energy, gasoline prices alone would rise 66 cents per gallon as a result of Kyoto. The U.S. Energy Information Administration (EIA) estimates an even higher spike in gasoline prices, at roughly 53 percent (or about 75 cents per gallon). The EIA further estimates electricity prices would nearly double as a result of Kyoto. Additionally, the Wharton Economic Forecasting Associates estimate that the price of home heating oil will rise 95 percent.

Bush proposes more science funding

Reluctant to commit America to such severe economic blows in light of the unsettled science, Bush announced a series of initiatives designed to increase scientific understanding of greenhouse gas emissions and more economically feasible solutions.

On July 13, the President announced an additional $120 million in funding for NASA to study the problem over the next three years. Nearly half the funds, $50 million, will be used to study how oceans and plant life absorb atmospheric carbon and therefore serve as emissions "sinks." Next on the list, $25 million will go to new computer modeling technology. Another $22 million is earmarked for studying how atmospheric aerosols affect the atmosphere. Finally, NASA will receive $20 million to analyze the role that clouds play in regulating potential warming.

"We spend over $1.8 billion annually, which is 50 percent of the climate-change research dollars worldwide, three times as much as the next largest contributor, and more than the EU and Japan combined," stated a Bush administration official.

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taking subject to just compensation, leaves unresolved a major point of contention between government and private citizens.

Denied permission to build

In 1959, Anthony Palazzolo and companions formed a corporation, Shore Gardens, Inc. (SGI), with the purpose of purchasing and developing for single-family homes 18 acres of land on a pond a few blocks from the Rhode Island coast. Soon thereafter, Palazzolo bought out his associates and became the sole shareholder.

Over the years, SGI's intermittent applications to develop the property were rejected by various government agencies. In 1971, after SGI failed several times in its attempts to develop the land, Rhode Island created the Rhode Island Coastal Resources Management Council (Council) and charged it with protecting the state's coastal properties. The Council's regulations, known as the Rhode Island Coastal Resources Management Program (CRMP), designated salt marshes like those on SGI's property protected coastal wetlands on which development would be severely restricted.

In 1978, SGI's corporate charter was revoked and title to the property passed to Palazzolo as the corporation's sole shareholder. In 1983 Palazzolo renewed his attempts to obtain permission to develop his property. When the Council rejected his renewed efforts, Palazzolo filed a state court action claiming the state had affected a regulatory taking of his property, entitling him to just compensation.

Compensation under the Takings Clause

The Takings Clause of the U.S Constitution's Fifth Amendment, applicable to the states through the Fourteenth Amendment, prohibits the government from taking private property for public use without just compensation.

The clearest sort of taking occurs when the government physically encroaches upon or occupies private land for its own proposed use. In *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393 (1922), the U.S. Supreme Court recognized there will be instances when government actions do not physically encroach upon or occupy property yet still affect and limit its use to such an extent that a taking occurs. While property may be regulated to a certain extent, if a regulation goes too far it will be recognized as a taking.

The Supreme Court has given some, but not too specific, guidance to courts confronted with deciding whether a particular government action goes too far and affects a regulatory taking. First, a regulation that denies all economically beneficial or productive use of land will require compensation under the Takings Clause. *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, at 1015 (1992).

Next, where a regulation places limitations on land that fall short of eliminating all economically beneficial use, a taking nonetheless may have occurred, depending on a number of factors including the regulation's economic effect on the landowner, the extent to which the regulation interferes with reasonable investment-backed expectations, and the character of the government action. *Penn Central Transp. Co. v. New York City*, 438 U.S. 104, at 124 (1978).

These inquiries are governed by the purpose of the Takings Clause, which is to prevent the government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole. *Armstrong v. United States*, 364 U.S. 40, 49 (1960).

"Future generations, too, have a right to challenge unreasonable limitations on the use and value of land . . . The State may not by this means secure a windfall for itself."

Rhode Island courts reject Palazzolo's claims

The Rhode Island State courts, including the Rhode Island Supreme Court, rejected Palazzolo's claims on several grounds.

As an initial matter, the State Supreme Court ruled that Palazzolo's claims were not ripe for judicial review because he had not exhausted his remedies with various state agencies. A takings claim challenging the application of land-use regulations is not ripe for judicial review unless the government entity charged with implementing the regulations has reached a final decision regarding the application of the regulations to the property at issue.

The state court reasoned that, notwithstanding the Council's numerous denials of Palazzolo's applications, it was not yet settled as to what extent the Council would disallow development on the property. The court based its holding in part upon Palazzolo's failure to explore uses for the property that would involve filling less wetlands than he had proposed.

The court suggested that while the Council at various times rejected Palazzolo's effort to fill all 18 acres of his wetlands, and then rejected his proposal to fill 11 of the wetland acres, perhaps an application to fill five acres would have been approved. It relied upon prior U.S. Supreme Court observations that the final decision requirement is not satisfied when a developer submits, and a land use authority denies, a grandiose development proposal, leaving open the possibility that lesser uses of the property might be permitted. *MacDonald, Sommer & Frates v. Yolo County*, 477 U.S. 340, 353 (1986).

"[T]he purpose of the Takings Clause . . . is to prevent the government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole."

Additionally, the Rhode Island Supreme Court ruled that Palazzolo could not pursue a takings claim because he acquired the property at issue after the Council's regulations had taken effect. According to the court, because Palazzolo had notice of the Council's regulations prior to his acquisition of the property (notwithstanding that the change in title was merely technical, in that Palazzolo as sole shareholder owned the property before the regulation took effect and before his title transferred from Palazzolo the sole shareholder to Palazzolo the private citizen), he had full knowledge of the current property value prior to making his acquisition.

Finally, the State Supreme Court ruled that Palazzolo could not pursue compensation based on a total loss of property value because the parties were in agreement that his property was still worth $200,000.

High Court resurrects Palazzolo's claims

Palazzolo then petitioned the U.S. Supreme Court to review the Rhode Island Supreme Court's decision, and the federal High Court agreed to hear the case.

In a 6-3 majority opinion issued June 28, Justice Anthony Kennedy ruled that Palazzolo was not required to engage in further wrangling with the Rhode Island Coastal Resources Management Council prior to presenting his claims in court.

Kennedy noted the Rhode Island court surmised the Council might allow development of a smaller section of his property than Palazzolo had proposed. However, "this is belied by the unequivocal nature of the wetland regulations at issue and by the Council's application of the regulations to the subject property," Kennedy observed.

Noted Kennedy, "Winnapaug Pond is classified under the CRMP as a Type2 body of water. A landowner, as a general rule, is prohibited from filling or building residential structures on wetlands adjacent to Type2 waters." Although a landowner may seek a special exception from the Council to engage in a prohibited use, the Council is permitted to allow the exception only where a compelling public purpose is served. "The proposal to fill the entire property was not accepted under Council regulations and did not qualify for the special exception."

Moreover, the Council had cited its compelling public purpose standard in subsequently rejecting Palazzolo's request to develop only a portion of the property. "While a landowner must give a land-use authority an opportunity to exercise its discretion, once it becomes clear that the agency lacks the discretion to permit any development, or the permissible uses of the property are known to a reasonable degree of certainty, a Takings claim is likely to have ripened," reasoned Kennedy.

No "expiration date" on Takings Clause

The Court further ruled that Palazzolo's acquisition of title to the property after the Council's regulations took effect did not preclude his takings claim. Kennedy summarized the Rhode Island court's decision as follows:

"Property rights are created by the State. By prospective legislation the State can shape and define property rights and reasonable investment-backed expectations, and subsequent owners cannot claim any injury from lost value. After

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The report pointed to crumbling buildings on Ellis Island, out-of-control forest fires in numerous national parks, and dangerous buildings in Montana federal parks.

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all, they purchased or took title with notice of the limitation."

The problem with this theory, reasoned Kennedy, is "were we to accept the State's rule, the post-enactment transfer of title would absolve the State of its obligation to defend any action restricting land use, no matter how extreme or unreasonable. A State would be allowed, in effect, to put an expiration date on the Takings Clause. This ought not to be the rule. Future generations, too, have a right to challenge unreasonable limitations on the use and value of land . . . The State may not by this means secure a windfall for itself."

Moving to the final issue, the majority ruled that while Palazzolo did not suffer a complete loss of property value due to the Council's regulations, he still might be able to show that a regulatory taking had occurred.

Palazzolo noted that in *Lucas* the Supreme Court ruled that regulation completely stripping property of all its value, or merely leaving a few token crumbs of value, amounts to a regulatory taking. Palazzolo argued that the drop in his property value from over $3 million to $200,000 was so significant as to leave his property with mere token value. The majority disagreed.

While Palazzolo was denied permission to develop his land for numerous single-family homes, he retained the right to build a personal residence on a portion of the land. "A regulation permitting a landowner to build a substantial residence on an 18-acre parcel does not leave the property economically idle," asserted Kennedy.

For more information...

WWW The full text of the Competitive Enterprise Institute's May 30 report, "The Ongoing Clean-Air Debate: The Science Behind EPA s Rule on Soot," is available on the CEI Web site at **http://www.cei.org/PDFs/ongoing_clean_air_debate.pdf**.

However, the fact that Palazzolo had not suffered a total loss in usage or property value did not settle the issue. Palazzolo could still pursue the *Penn Central* reasoning that a partial but not total loss in property value may still qualify as a regulatory taking.

Because the Rhode Island courts had dismissed Palazzolo's case on other grounds, the courts never conducted the *Penn Central* analysis. The Supreme Court therefore remanded the case back to the Rhode Island courts for a determination whether the Council had affected a regulatory taking under the *Penn Central* analysis. Among the factors to consider would be the regulations' economic effect on the land, the extent to which the regulations interfere with reasonable investment-backed expectations, and the character of the government action.

Property rights momentum continues

The U.S. Supreme Court's decision, while not a total victory for Palazzolo, nevertheless was sufficient to hearten advocates of citizens' property rights.

Roger Pilon, director of the Cato Institute's Center for Constitutional Studies, concluded that Palazzolo won on two counts and the third was left for another day.

Nancie Marzulla, president of the Defenders of Property Rights legal foundation, agreed. "Once again, the Supreme Court has told the government that it cannot violate constitutionally protected property rights. Since 1987, property owners have won every case in the Supreme Court. It's time government regulators got the message that the property rights of landowners cannot be destroyed in the name of environmental protection."

Brian Bishop, director of Rhode Island WiseUse, applauded the decision as a victory for citizens' property rights, but cautioned future battles remain to be fought. "Sadly, this is not the end of the regulatory state. This does not mean the state will stop harassing people and taking their property. It simply means they will be slightly more accountable in doing so."

The High Court's opinion strengthens grassroots efforts in various states to protect citizens from regulatory takings. In 1995, Florida enacted the Bert Harris Property Act, which provides compensation for citizens whose property values decline as a result of government restrictions. In 2000, Oregon citizens passed Measure 7, similar to the Florida Act.

Opponents of market-based environmentalism have launched a campaign to overturn the Florida law, and several Oregon cities and counties have filed a lawsuit seeking to have Measure 7 declared unconstitutional.

House subcommittee resurrects "Land Grab" bill

The House Resources Committee on June 20 attempted to revive a $1.3 billion proposal for the government to buy up and set aside privately owned lands. The Conservation and Reinvestment Act (CARA) garnered substantial support in both houses of Congress last year but died during bickering over who would control each year's purchasing decisions.

Free-market environmentalists have dubbed CARA the "Land Grab Bill" and have questioned why the government feels a need to buy up still more private property. R.J. Smith, a property rights expert at the Competitive Enterprise Institute (CEI), notes the government already owns more than 42 percent of the nation's land. "Where is the pressing need for additional land acquisition?" he asked during previous hearings. "How much land do you intend ultimately for the government to own? How much is enough?"

"Transferring well-managed private lands into the hands of federal bureaucrats is the height of irresponsibility and folly."

ALLISON FREEMAN, POLICY ANALYST
COMPETITIVE ENTERPRISE INSTITUTE

Adding fuel to Smith's concerns are recent studies showing the government is failing to properly manage the land it already owns. Earlier this year, a study by the Department of the Interior's inspector general reported $13 billion in backlogged maintenance costs on federal land. The report pointed to crumbling buildings on Ellis Island, out-of-control forest fires in numerous national parks, and dangerous buildings in Montana federal parklands.

In addition to the Department of Interior study, a General Accounting Office report concluded the federal government has not been able "to effectively carry out its maintenance responsibilities."

The federal government, according to Representative Butch Otter (R-Idaho), is "just not managing the land" it already owns. "Now we want them to buy more of it so it will all be in greater disrepair?"

During the June 20 hearing, American Association of Small Property Owners President Patricia Callahan chastised the government for attempting to take still more land away from private citizens. Callahan noted the Constitution does not authorize the federal government to enter the real estate business. Private citizens rather than government "ideologues" should decide what to do with their property, she asserted. "This is an outrage," Callahan said.

"Four of every ten acres in the United States are already owned by federal, state, county, or local governments," added Allison Freeman, a policy analyst at CEI. "Most of this land is grossly mismanaged, including 60 percent of the national forests that are considered to be in a 'very unhealthy' condition. Transferring well-managed private lands into the hands of federal bureaucrats is the height of irresponsibility and folly."

Despite the evidence of government mismanagement and largesse, opponents face an uphill battle to defeat CARA. Last year, CARA passed the House by a 315-102 vote before succumbing to Senate bickering over funding oversight.

For more information...

WWW and regular updates on the status of CARA, visit the Web site of the American Land Rights Association at **http://www.landrights.org/**.

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"A primary reason the ESA has failed to produce its intended results is that citizens are penalized, rather than rewarded, for endangered species residing on their property."

PERC proposes reforms of environmental policy

BY JAMES M. TAYLOR

PERC The Center for Free-Market Environmentalism, a Bozeman, Montana-based policy research group, is proposing a series of changes in Interior Department and Forest Service policies to make those agencies more supportive of free-market environmentalism.

In *Conservative Conservation: Proposals for the New Century*, PERC associates offer recommendations for endangered species protection, recently declared monuments, federal grazing permits, recreation fees, and federal water projects.

"Modest reforms, especially in Interior Department and Forest Service policies, could bring about major advances in achieving environmental goals," according to the PERC proposals. Such reforms could be readily implemented by the Bush administration and Congress, the Center believes.

Central to the PERC proposals is the realization that positive incentives, rather than regulatory prohibitions, best ensure sound environmental stewardship. Free-market environmentalism "recognizes that markets—voluntary choices—can encourage cooperation and provide positive incentives for good stewardship.…These incentives are more effective when they come in the form of the market carrot rather than the regulatory stick."

Endangered species

One example of the high cost of relying on government prohibitions, rather than free-market incentives, to advance environmental interests is the Endangered Species Act (ESA). "The Endangered Species Act has preserved only a few species, cost billions of dollars, and encouraged efforts to avoid regulations," PERC observes.

"[I]ncentives are more effective when they come in the form of the market carrot rather than the regulatory stick."

A primary reason the ESA has failed to produce its intended results is that citizens are penalized, rather than rewarded, for endangered species residing on their property. The federal government offers no reward, incentive, or compensation for species protection, but threatens severe penalties for citizens who disrupt endangered species. As a result, citizens who might otherwise encourage nearby endangered species to reside on their property instead seek to make their property inhospitable.

As an example of this, PERC notes a study on timber harvesting in North Carolina. The study showed that trees close to colonies of endangered red-cockaded woodpeckers were logged long before they matured, while trees farther away were harvested much less frequently. "Landowners appear to be making sure that the trees do not become potential woodpecker habitat. Thus the act provides the wrong incentives."

As a better solution, PERC proposes conservation rental contracts as the primary tool for applying the Endangered Species Act. Under such a contract, "a landowner could agree to produce an increase in the number of endangered species on his or her property, essentially agreeing to a production contract. Alternatively, the landowner could give up some development or activity such as logging or building for a specified period, perhaps also agreeing to specific conservation measures, such as prescribed burns or creating wildlife food plots."

The idea is to reward citizens for specific voluntary achievements. Not only would voluntary contracts eliminate the current incentives to destroy potential habitat for endangered species, it would reward rather than punish those citizens best situated to protect endangered species. Moreover, voluntary contracts would ensure that the federal government, rather than a few individual citizens, assumes the economic costs of protecting valued species.

National monuments

PERC points out that another forum in which regulatory prohibitions have backfired is the designation of national monuments. Controversy surrounding such designations reached new heights with the Clinton administration's designation of vast land tracts as "national monuments" under the Antiquities Act of 1906. Although the Clinton administration's strategy was designed to prevent development of scenic wilderness, PERC notes "it left the door wide open for the same managerial uncertainty that makes our national parks both fiscally and environmentally troubled."

Designating an area as worth preserving is one thing, but coming up with the resources for such preservation is another, observes PERC. "Degraded resources and huge maintenance backlogs characterize such crown jewels as Yellowstone, Yosemite, and Glacier," the Center notes. Adding a host of new national monuments, each with its attendant maintenance costs, is untenable without the voluntary cooperation of private citizens.

To encourage voluntary cooperation and funding for the preservation of national monuments, PERC proposes a federal land trust for each recently designated national monument with proven value for both commodity use and environmental preservation.

"Under this approach, each monument would be governed by a board of trustees appointed by the president," notes the PERC report. "The board would have a fiduciary—that is, legally accountable—responsibility to maintain the unique environmental, cultural, and recreational values of the monument."

The expenses of preserving these values would be covered by revenues earned from commodities and recreation. Each trust would generate funds for conservation while also allowing continuation of traditional uses of the land, such as energy development, recreation, and grazing. "It would give managers incentives to choose the most appropriate use of each land segment while taking into account the overall objectives established for each site," reasons PERC. Arbitrary "best-use" or "balanced-use" determinations would be replaced by market incentives tied to environmental stewardship.

Precedents for land trusts are common in both the private and state government sectors. PERC notes a successful example in the National Audubon Society's management of the Rainey Wildlife Sanctuary in Louisiana.

The Rainey Preserve, a refuge for snow geese, wading birds, ducks, and other wildlife, had natural gas wells operating on its property from the early 1950s until 1999, when the site ran out of economically retrievable quantities of natural gas. The natural gas wells earned Audubon roughly $25 million in royalties, which were reinvested in environment conservation efforts.

"By requiring special exploration and extraction techniques, Audubon ensured protection of wildlife habitat while producing natural gas and earning significant revenues," noted PERC.

The voluntary incentives of a federal land trust

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Central planning dooms "smart growth" strategies

BY RANDAL O'TOOLE

Imagine that almost every city, county, town, and village in the United States has at least one communist on its staff—not a secret communist infiltrator, but someone whose job title is *Communist*, whose job description is to implement communism in that community, and whose job prerequisite is being a card-carrying member of the Communist Party.

Sounds pretty difficult to believe, doesn't it? But the most important part of soviet communism is central planning. Now go back to the previous paragraph and replace the word *communist* with *planner*, *communism* with *planning*, and *Communist Party* with *American Planning Association*. Then the paragraph turns out to be the absolute truth.

"Portland planners even admit their goal is to 'replicate' Los Angeles —the nation's most congested, polluted, and one of its least affordable cities—in Portland."

I'm not accusing planners of being communists. I'm accusing communists of being planners. The Soviet Union might have survived if it hadn't put planners in charge of everything from how much cement to produce to how many shoes to make and when fishing boats should dip their nets into the sea and when they should pull them out again.

In the United States, many planners agree with architect Andres Duany, who urges land-use planners to write plans "with such precision that only the architectural detail is left" to the land owners. Most planners believe property rights are "flexible," and that no property owner should be able to do anything with his or her land without government approval.

While conservatives hunted for communists in the State Department, planners gathered enormous power over our lives down at city hall. Despite their scientific pretensions, planners really have no idea how a city or any other economy works. So they rely on fads to tell them how to run our lives. In the 1950s and 1960s, the fad was urban renewal. Today, it is *smart growth*.

Oregon: Planning's victim

Smart growth says Americans drive too much, and the large lots on which they live waste too much land. To solve these supposed problems, planners promote all sorts of regulations aimed at reducing driving and forcing people to live on less land.

The smart-growth fad is furthest advanced in Oregon, where planners have passed an unbelievable set of regulations for land use and transportation. Here are just a few of them.

Planners have drawn **urban-growth boundaries** around all of Oregon's cities and towns. These growth boundaries contain just 1.25 percent of all the land in Oregon, yet planners hope to eventually force 90 percent of Beaver State residents to live within them. Only actual farmers should be allowed to live outside the boundaries, say planners, so the state planning agency passed a rule allowing people to build homes on farm land only if they actually earn $80,000 a year farming it.

Inside the boundaries, **planners regulate everything** from parking on the streets to the use of church buildings. One Portland church with 400 seats in its sanctuary was told that it could allow no more than 70 people to worship in the church at one time. A growing church in southern Oregon was told it could not expand unless it remained closed on Saturdays and held no more than five weddings or funerals a year.

Religious regulation is an outrageous but minor component of Oregon's land-use planning. More important is **minimum-density zoning**, which requires that all development be to at least a given number of houses per acre. To fit a growing population within the urban-growth boundaries, planners are rezoning existing neighborhoods to higher densities. Some neighborhoods of single-family homes have been rezoned to multi-family densities.

If you own a quarter-acre lot in such a neighborhood, you would not be allowed to build a single house on it—even if many other homes in the neighborhood are on quarter-acre lots. Instead, if the area is zoned to 24 units per acre, you will be required to build a six-unit apartment. Owners of large yards are encouraged to build apartments in their backyards. If your house burns down, you will be required to replace it with an apartment.

Planners also want to **control the design** of people's homes. They derisively called houses with garages in front "snout houses," and say that people who own such houses drive too much. So Portland has passed an ordinance requiring that garages be recessed behind the front of new homes.

To further discourage driving, planners are deliberately not building new highways. Their goal is to **increase congestion** to stop-and-go levels during much of the day, so people will walk or ride public transit instead of drive. Planners are also building concrete barriers and speed bumps on existing roads in order to **slow traffic and reduce traffic flows**. They call this *traffic calming*, though the people who must drive on such roads feel anything but calm.

Be careful what you ask for

Smart growth turns out to accomplish the exact opposite of almost everything it promises. It makes cities more congested. Because cars pollute more in stop-and-go traffic, it increases air pollution. Artificial land shortages lead to unaffordable housing. Open spaces are rapidly filled with high-density housing.

Portland planners even admit their goal is to "replicate" Los Angeles—the nation's most congested, polluted, and one of its least-affordable cities—in Portland. They have come close to achieving this goal. In the last 18 years, congestion in the Portland area has grown faster than in any other U.S. urban area, while the city has gone from being one of the 50 most affordable to one of the 10 least affordable markets for single-family housing in the nation.

A decade ago, smart-growth ideas were peculiar to Oregon. But now they are rapidly taking over the country. Government officials in such diverse states as Florida, Georgia, Maryland, Minnesota, Washington, and Wisconsin have strongly endorsed smart growth. President George W. Bush's new director of the Environmental Protection Agency and secretaries of Transportation and Housing and Urban Development have all promised to maintain federal smart-growth policies launched during the Clinton administration.

In retrospect, it is likely that planners in our city governments will do far more harm to our personal and economic freedoms than communists in the State Department. The solution is simple: Fire all the planners. Achieving that solution, however, will require a concerted effort by conservatives, libertarians, and everyone else who cares about urban livability, mobility, and freedom.

Randal O'Toole (rot@ti.org) is senior economist with the Thoreau Institute (www.ti.org) and author of the recent book, The Vanishing Automobile and Other Urban Myths.

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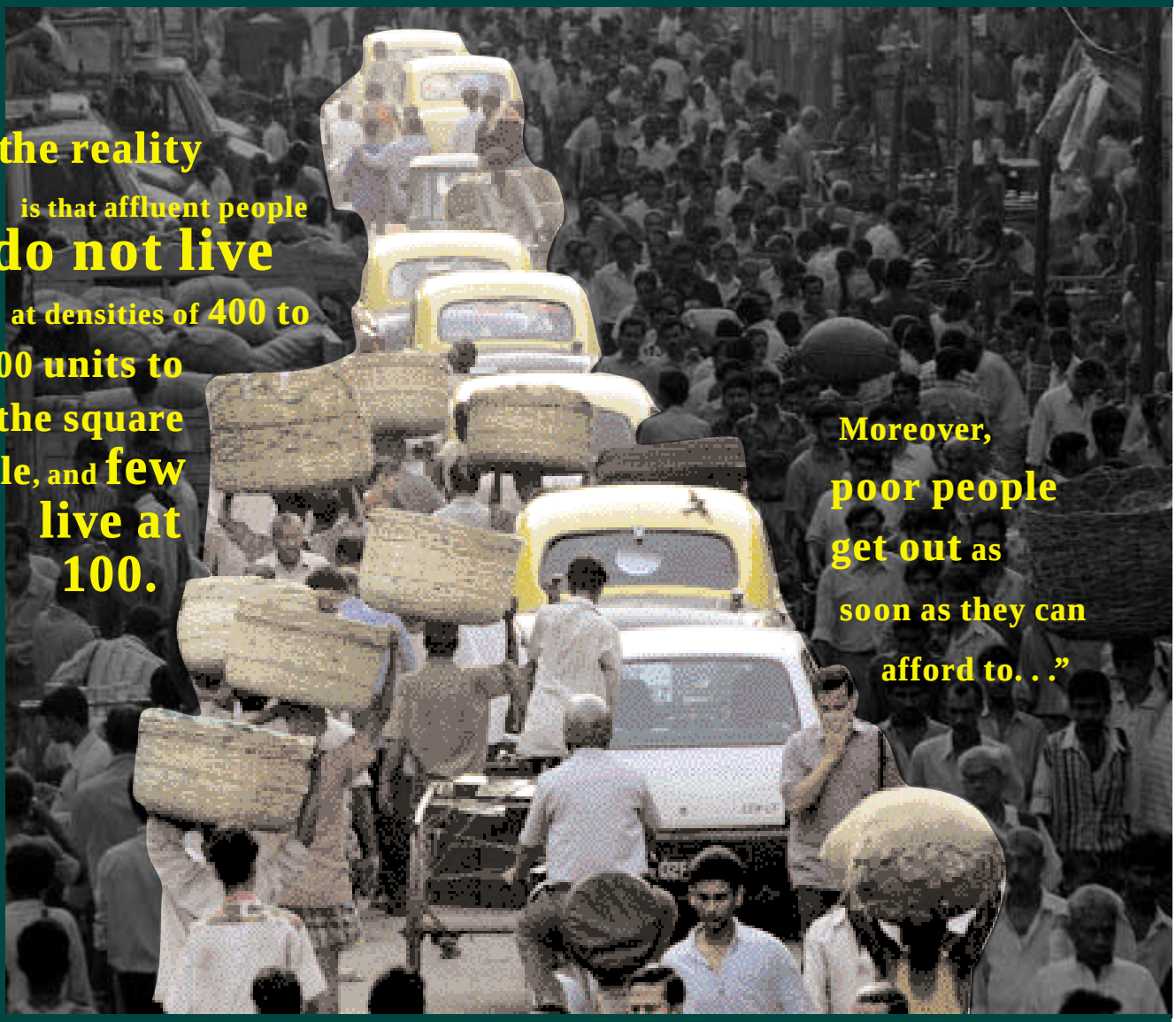
"the reality is that affluent people do not live at densities of 400 to 500 units to the square mile, and few live at 100.
Moreover, poor people get out as soon as they can afford to. . ."

The Sierra Club's "*huddled masses*" vision

BY WENDELL COX

On June 18, the Sierra Club posted what it termed an "Environmental Impacts Calculator" to its Web site. The calculator allowed visitors to enter various data, including population density, and then generated Sierra Club estimates for resource consumption, travel, and infrastructure requirements at the selected level of density. These data were then compared to an "Efficient Urban" density of 500 housing units per acre and a "Sprawl" density, at one housing unit per acre

Randal O'Toole (Thoreau Institute) and I (Demographia) were quick to point out that the "Efficient Urban" density used for comparison by the Sierra Club was well above the densities of the world's most dense cities. Our Internet posting noted the Sierra Club was proposing densities even greater than the "black hole of Calcutta."

It did not take long for the Sierra Club to recognize its mistake. By June 20, Environmental Calculator II had been posted, reducing the "Efficient Urban" category 80 percent to 100 housing units per acre, while adding a "Dense Urban" category at 400 units per acre, and an "Efficient Suburban" at 10.

But this did not solve the problem. At average U.S. housing unit occupancy rates:

- The new "Dense Urban" category (400 units to the acre) would require residential population densities (commercial areas excluded) approximately 1.5 times that of poverty-stricken Mumbai's (Bombay) densest area, the Marine Lines Ward. The most dense census tract in the United States, in New York City, is barely one-half the "Dense Urban" figure, and this is for an area of less than 12 acres, approximately the size of San Francisco's compact new baseball stadium.
- Perhaps most starkly, the new Dense Urban category is more than three times as dense as the notorious turn-of-the-century (twentieth) Lower East Side of Manhattan. U.S. urban density peaked there at 120 households to the acre and even fewer housing units, because many families had to "double up."
- The revisionist "Efficient Urban" category (100 units to the acre) is more dense than all but nine square miles of the United States (out of approximately 100,000 square miles of urbanization) and all but 45 acres in Manhattan. Even the 1.5 square mile 11th Arrondissement in Paris (the most dense area of the most dense western city) falls short of the "Efficient Urban" category. The new "Efficient Urban" category is similar to the "Huddled Masses" 120 households-to-the-acre record set by the Lower East Side in 1910.
- The new "Efficient Suburban" (10 units to the acre) category requires, according to the Sierra Club, "row houses with occasional single-family dwellings and apartment houses." It is doubtful the average suburbanite would recognize such intense urban development as suburban. Perhaps it is time the Sierra Club's analysts visit a suburb to see what it is really like.

The reality is that affluent people do not live at densities of 400 to 500 units to the square mile, and few live at 100. Moreover, poor people seek to escape as quickly as they can, which is why Lower East Side densities have fallen by 70 percent.

The Sierra Club tried to limit the damage by attaching a disclaimer to Environmental Impacts Calculator II, indicating no endorsement of any particular level of

HUDDLED MASSES continued at right

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SIERRA CLUB continued from page 1

On June 19, the Web site indicated that the efficient urban density is 500 households per acre. Since the U.S. has an average of 2.4 people per household, this represents 1,200 people per acre, or 768,000 people per square mile. Manhattan, at only 52,000 people per square mile, has a ways to go before it reaches smart-growth perfection.

Demographer Wendell Cox (http://www.demographia.com) points out that the Sierra Club's "efficient urban density" is denser that the densest parts of Mumbai (Bombay) and Hong Kong. In fact, Cox adds, at this density *everyone* in the United States could fit into an area a little larger than Portland, Oregon's urban-growth boundary.

Perhaps in response to Cox's comments, on June 20 the Sierra Club modified the Web page to compare four different densities:

- "Dense urban," which is 400 households per acre, slightly less than the "efficient urban" of the day before;
- "Efficient urban," which is "only" 100 households per acre;
- "Efficient suburban," which is 10 households per acre; and
- "Sprawl," which the Sierra Club defines as one household per acre.

Twelve times Manhattan

Even the "efficient" urban density is incredibly dense compared to what most people are used to. One hundred households per acre is 153,600 people per square mile, or three times the density of Manhattan. The "dense urban" 400 households per acre is 614,400 people per square mile—nearly 12 times as dense as Manhattan.

Of course, 400 housing units could fit on an acre in a 20-story building, each story containing 20 apartments averaging a little over 2,000 square feet. Add four or five more stories for shops and offices and some underground parking and you have a nice dense city of 25-story buildings. But few cities have large areas of 25-story apartment/mixed-use buildings. Even in Manhattan, most residences are in four- to 10-story buildings.

But the so-called efficient density of 100 households per acre is scary enough. At that density, the population of the United States could fit in the Los Angeles urbanized area—call it "Sierra Club City." The entire population of the world would fit into the state of Virginia.

The Sierra Club assumes that all or nearly all office and retail establishments would be mixed in with the residential areas. It calculates that the efficient density would provide 48 "shopping opportunities per acre," whatever that means, as opposed to just 0.65 opportunities per acre at sprawl densities.

To be fair, some additional land would be needed for factories, warehouses, and other industrial areas. But that would still leave most of the rest of the world for farms, parks, and wilderness, which of course is the Sierra Club's goal.

How much land would Sierra Club City save? At the present time, U.S. cities, towns, and other urbanized areas occupy about 109,000 square miles of land. Roughly one-third of that is industrial. If Sierra Club City replaced the other two-thirds, that would allow the restoration of about 72,000 square miles of land to farms, forests, or nature preserves. That sounds like a lot, but it amounts to just 2 percent of the land area of the United States.

"[R]esidents in the Sierra Club's efficient city would drive 1.3 million miles per day for each square mile of residential area. That's 33 times more than in the average urban area, and 10 times more than in Los Angeles."

Of course, if Sierra Club City stacks industry in 25-story buildings too, then up to 3 percent of the nation's land could revert from urban uses to open space. Whether saving 2 or 3 percent is worthwhile depends on the costs of high-density living.

Dramatically increased congestion

Start with congestion. The Sierra Club says people living in sprawl densities of one household per acre would drive more than 32,000 miles per year. But at the efficient densities, says the club, they would drive only 7,600 miles per year, less than a fourth as much. Of course, with 100 times as many people per square mile, that means total driving would be nearly 24 times more per square mile in Sierra Club City than in sprawl.

Urban Americans drive an average of 40,000 miles per square mile of urbanized land each day. As the highest-density urban area, Los Angeles also has the highest density of driving: 124,000 miles per square mile of land.

But residents in the Sierra Club's efficient city would drive 1.3 *million* miles per day for each square mile of residential area. That's 33 times more than in the average urban area, and 10 times more than in Los Angeles.

Curiously, no matter what the population density, the Sierra Club model dedicates 93 acres of land per square mile to roads and sidewalks. It is not clear whether this is included in, or in addition to, household per-acre densities. Assuming it is in addition, then it represents about 13 percent of the land area, which is about right for suburban areas but far lower than the percentage of high-density urban areas that is devoted to streets.

Ninety-three acres divided into 12-foot lanes with three-foot sidewalks represents about 50 lane-miles of roadway. To handle 1.3 million miles of vehicle travel per day, each lane-mile of road would have to carry 1,100 vehicles per hour, 24 hours a day, seven days a week. Non-freeway arterial lanes can handle just that number, while freeway lanes can handle twice this amount, and lesser streets (collectors and locals) do less.

Thus, Sierra Club City will be about as congested as Manhattan during rush hour—only congestion in Sierra Club City will be 24/7. The Sierra Club's "dense urban" density of 400 households per acre, of course, will be even worse: The club predicts people will drive more miles per lane mile than the best freeways can handle.

Increased air, water pollution

With this much traffic concentrated in a small area, Sierra Club City will be one of the most polluted cities in the history of humanity. The city will produce less pollution per capita than in a sprawling city, but it will be far more concentrated.

Typically, the Sierra Club model crudely assumes pollution is directly proportional to fuel consumption. The Web site asks you to enter the average fuel efficiency you imagine for your city and it calculates the pounds of hydrocarbons (volatile organic compounds), nitrogen oxides, particulates (PM10), and carbon dioxide that will be produced. The Sierra Club doesn't estimate carbon monoxide emissions, but autos tend to produce about 10 times as much CO as hydrocarbons.

The Sierra Club presents pollution in terms of pounds emitted per household each year. For carbon dioxide, which is implicated in global warming, total emissions may be crucial. But for many of the other pollutants, the problem is not total emissions but the *concentration* of emissions. Heavy concentrations of carbon monoxide and particulates, for example, pose extremely serious health risks, while low levels can be tolerated and ignored by most people.

Sierra Club City will produce extremely dangerous levels of these toxic pollutants. Based on the Sierra Club's numbers, automobiles in sprawl emit about 100 pounds of hydrocarbons, a half-ton of carbon monoxide, and 680 tons of particulates per square mile per day. But Sierra Club City will produce 2,340 pounds of hydrocarbons, nearly 12 tons of carbon monoxide, and more than 16,000 tons of particulates per square mile per day.

Since the Sierra Club model assumes emissions are proportional to fuel consumption, all pollutants will be 24 times as concentrated in Sierra Club City than in sprawl. But in fact, cars pollute more in stop-and-go traffic, and the extra congestion in Sierra Club City will make it even more polluted than the Sierra Club numbers indicate.

The Sierra Club model also claims high densities will produce less water pollution. "When more than 20% of the watershed is paved over and developed," says the club, "water pollution skyrockets." But a suburban neighborhood of one household per acre will have much less than 20 percent of its area paved over, while an urban jungle of 100 households per acre will be nearly all paved over. Thus, we can expect the most pollution from the urban area.

No less driving?

The Sierra Club's model is optimistic about the effects of density on driving. The model assumes that, at any density, doubling density reduces per-capita driving by 20 percent. This is about four times greater than can be observed by looking at U.S. urban areas. However, it is about the amount generated by studies that looked at driving habits of residents of individual neighborhoods of various densities.

The problem with such studies is they usually fail to control for family size, income level, and other factors that influence driving. A disproportionate number of people in high-density areas are either poor or have no children. They either can't afford to drive or have decided they would prefer to use transit. But this doesn't mean forcing a middle-class family of four to live in high densities will lead them to drive significantly less.

Even without this error, Sierra Club City—a permanently congested and dangerously polluted area—will be far less attractive to most Americans than sprawl. But smart-growth advocates will nevertheless press for increasing densities in virtually every U.S. city.

Randal O'Toole is senior economist with the Thoreau Institute and author of The Vanishing Automobile and Other Urban Myths. *He can be reached by email at rot@ti.org, or visit the Thoreau Institute's Web site at www.ti.org.*

HUDDLED MASSES continued

density. However, as *Denver Rocky Mountain News* columnist Vincent Carroll put it, "why would the Sierra Club even suggest an urban density of 400 households an acre as a desirable goal?"

The case reveals the extent to which the Sierra Club is out of touch with reality. Its higher density categories would require adding between 24 and 124 housing units to the average quarter-acre suburban lot. Even Portland's policies, by far the most draconian in the nation, do not anticipate adding even a single housing unit to each lot.

In the end, Environmental Impacts Calculator II was withdrawn from the Sierra Club's Web site as "under construction."

But that was not the end of it. The pressure forced Sierra Club officials to climb down even further. In a letter to the editor responding to Carroll's column, the president of the Rocky Mountain Chapter wrote, "we do agree with Carroll and others on one thing—people should be able to live how and where they want"…a near verbatim quote from the free-market based Lone Mountain Compact.

But people cannot live how and where they want if Sierra Club-supported land use regulations "green line" large swaths of land out of development. It may be time for the Sierra Club to climb down again.

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TECHNOLOGY

Good for people, good for the environment

Through the inventiveness of the human brain, combined with the qualities of capitalism, technology is created that benefits society…and nature.

BY GARY LEMKE

During the Independence Day weekend of 1999, northern Minnesota suffered one of the worst windstorms in recorded history. Millions of trees were leveled.

The devastation occurred primarily in the Boundary Waters Canoe Area Wilderness (BWCAW), a federally protected region of one million acres in which motorboat and snowmobile use is severely restricted and logging and mining are banned. The trees that littered the ground quickly became a fire hazard.

But tree removal would have directly conflicted with the environmental mandates placed on the BWCAW area. While some logging was allowed near residential areas at high risk, loggers were not allowed to take the vast majority of the fallen timber. The fire hazard would not be solved quickly, and perfectly good timber rotted on the forest floor.

The U.S. Forest Service ultimately decided to conduct controlled burns for several years to reduce the danger of fire in the area.

Eventually, burning may well address the problem . . . but extensive logging would have helped significantly. At the time of the storm, such thinking was a political impossibility. Though logging made practical sense in this situation, it was not feasible given the forces against machinery.

Machinery: A better way

As chairman of ASV, an affiliate of Caterpillar, Inc., this story is of great interest to me: Not only because we're headquartered just a couple hundred miles south of the Boundary Waters, but because we manufacture high-tech, environmentally sensitive construction equipment. We've discovered and developed technology that makes a heavy, powerful machine light on the ground; Caterpillar has invested more than $20 million with us.

Our equipment—and equipment developed by others in the industry who have followed our lead—does not damage the earth. We use 48 wheeled contact points within a rugged reinforced rubber-track. The wheels are placed in such a way as to take the pressure off any single pressure point, effectively distributing the weight of the machine. When our 9,000-pound machine drives over the earth, it has the same impact as a kindergartner running across your lawn in sneakers.

"When our 9,000-pound machine drives over the earth, it has the same impact as a kindergartner running across your lawn in sneakers."

I won't claim this new equipment would have been the only solution in the BWCAW. My point is simply this: Technological advances have allowed for the development of heavy equipment that will not cause so much as a dent in the wilderness.

That's exactly what the BWCAW asks of visitors. "Will you accept the wilderness challenge? . . . Leave No Trace," its Web site reads. We would have liked an opportunity to take up that challenge.

A troubling assumption

Concerns about how equipment is used in environmentally sensitive areas are perfectly valid. It is the assumption that technology cannot solve our problems that is troubling. Be it fuel efficiency, global warming, or vehicle emissions, many observers fail to realize the rapid pace at which technology is proceeding to address environmental issues.

The construction industry, for example, is burdened by the common notions that all heavy equipment is made equal, that it does not change over time, and that it must be destructive. The rapid advance of technology in my industry rarely garners much attention.

At ASV, we did not set out to create gentle machinery to save the world. We did it to create jobs, to build a profitable company, and to achieve growth for our shareholders. We did it to build machines that were extremely efficient and powerful on traditional construction sites . . . as well as friendly to environmentally sensitive sites.

Through the inventiveness of the human brain, combined with the qualities of capitalism, technology is created that benefits society . . . and nature. The machines of tomorrow will be even more efficient, more powerful, and more environmentally friendly than those of today.

Environmental forestry

Contractors, foresters, and local government officials are becoming increasingly aware of equipment that meets both the needs of the real world and the needs of the ecosystem. Environmental forestry is not merely an hypothesis; it's being carried out by numerous foresters around the country.

Mark Smith, an Oregon-based forester, is one of them.

"Loggers today continue to use harvesting methods that are more expensive and more environmentally harmful than necessary. I founded this business to prove that point," says Smith.

Smith operates environmental machinery in place of traditional methods. With it, he leaves scant soil compaction. He doesn't tear up or crush sensitive root systems of trees that aren't to be cut. And, he minimizes the soil runoff into nearby fish-bearing streams and rivers.

"We either manage our forests, or they (the federal government) will take them away from us. It's as simple as that. We either find a way to responsibly harvest timber without destroying other trees and harming the surrounding environment, or we won't be allowed to go in there at all," he warns.

Environmentally sensitive construction

The role for environmentally sensitive equipment goes well beyond forestry. New technology in the construction industry is changing the old rules there as well.

John Perkins, a contractor in Minneapolis, recently used new machinery to work around a wetland, while also doing difficult work in digging out a drainage system overgrown with vegetation and silt. Other methods likely would have meant destruction of the wetland.

"Whether I'm working for a city or a private homeowner, environmental concerns are just about always there," says Perkins. "Whether a city needs us to work in environmentally sensitive marshes or a homeowner is concerned about turf damage, these new machines allow us to work while not worrying about the damage we might otherwise cause."

This is good news. Because of the technology, even government agencies are finding out it is possible to do hard work with an eye on the environment.

Governments get sensitive

The Riverside County Flood Control and Water Conservation District in southern California is responsible for the maintenance of 82 miles of creeks and streams criss-crossing the county's fertile river valley. Without the constant effort, vegetation would overtake the rivers and cause the formation of lakes and swamps, which would increase the likelihood of flooding. Just downstream is populous Orange County, which relies on the water for drinking and therefore needs a continuous flow.

However, the river valley is also a remote area, fraught with mud, swamps, quicksand, and giant

"Many observers fail to realize the rapid pace at which technology is proceeding to address environmental issues."

TECHNOLOGY continued on next page

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TECHNOLOGY continued

reed grass that can grow a foot a day. Much of the vegetation there is protected by the government.

"Conventional machinery would destroy sensitive root systems, which essentially would kill the vegetation," said Mark Biloki, operations and maintenance superintendent for the Riverside County Flood Control and Water Conservation District.

According to Biloki, new high-tech machinery has proven not to harm the existing vegetation, and actually allows Riverside County to access areas unreachable before.

"The low ground pressure is what we have to have—these are ideal pieces of equipment," said Biloki. "We get into areas we never could have gotten to before, and it makes our difficult job that much easier."

of the machine setting off a bomb—the vehicle does not levitate—its extremely low ground pressure lowered that risk substantially.

"Range clearance is a very labor intensive and dangerous effort, but by using the machine and the attachments, we were able to reduce the time, effort, and risk significantly," said Charles Green, senior electrical engineer at Applied Research Associates, which operated the machine on behalf of the Air Force. "The EOD personnel felt a lot safer clearing a target after the machine has been through it, mowed the grass, and exposed the subsurface ordnance items."

Walking on eggshells

As a final example of how technology can overcome difficult environmental dilemmas, witness what has occurred in the community of Clearwater, Florida. Its beaches required major

A wide range of uses

Contractors are now able to build near wetlands without doing the damage they might have; they are able to walk on turf without doing harm; and they are able to move through forests with nary a trace. In California, contractors are use such machinery to reshape rivers through sensitive valleys, and in Rhode Island, the equipment is being used to reestablish salt marshes destroyed during the 1930s.

Environmentally sensitive machinery was used to resod sensitive Lambeau Field, where the football Packers play, and it's used on simple home and building construction projects to grade and dig.

Even the U.S. Air Force has found a use for the new technology. Before returning the Panama Canal Zone to Panama under terms of a 1978 treaty, the U.S. first had to remove hundreds of tons of unexploded bombs. Since the 1950s, the Air Force had used the area as a practice bombing site, and bombs, often buried in the ground, littered the site. Steep slopes, 10-foot high Kuna grass, and deep marshes made the bomb recovery an extremely difficult operation.

With the new technology, however, an operator using a remote-controlled machine was able to climb up and over the rocky terrain, move through the difficult swamps, and glide gently atop the unexploded bombs. While there was still a danger reconstruction, and the city had to overcome the fact that most machinery harmed turtle eggs buried only inches from the surface of the beach.

Environmentally sensitive construction equipment provided the solution. The machines are so light on the beach, they do not harm turtle eggs. Now, as the city works to maintain the beaches, life continues for humans and animals alike, with no need for an outright ban on machinery.

Technology advances

The year 2000 was the best year ever for ASV's environmentally sensitive equipment lineup. Sales reached $43.8 million, and we expect the trend to continue.

The moral of the story is this: Those who advocate extreme, economically hurtful measures to protect the planet do so out of blindness to the advances technology makes every year.

Ten years ago, we didn't have technology that could make construction equipment light on the ground. Today we do.

What will we have in another 10 years? No one knows for sure . . . but what we have on the drawing board is incredible.

Gary Lemke is chairman and CEO of ASV, Inc., an affiliate of Caterpillar Inc. The company's Web address is www.asvi.com.

"Precautionary Principle" is at odds with science

BY BONNER R. COHEN

Ignoring the achievements of modern science and technology, European bureaucrats and American environmental activists have embraced a doctrine fundamentally at odds with common sense.

The doctrine is called the "precautionary principle." At first glance, it would seem to suggest little more than "look before you leap" or "better safe than sorry." Yet as cattlemen, biotechnology companies, and manufacturers of medical devices are finding out, the precautionary principle is a lethal weapon aimed at today's most innovative products and promising scientific breakthroughs.

So what is this precautionary principle? The Science and Environmental Health Network, a North Dakota-based activist group, is one of many environmental organizations that define the precautionary principle as follows:

"When an activity raises threats of harm to the environment or human health, precautionary measures should be taken even if some cause-and-effect relationships are not fully established scientifically."

By separating the alleged "threats of harm" from "cause-and-effect relationships," the precautionary principle opens the door to a world in which mere conjecture becomes the driving force behind health and safety regulations.

"The so-called 'precautionary principle,'" notes Washington State University toxicologist Alan S. Felsot, "essentially holds that when any concerns or allegations, no matter how spurious, are raised about the safety of a product, precautionary measures should be put in place and all burden of proof to the contrary should fall on the proponent of the allegedly unsafe product or activity."

Proving a negative

A regulatory framework geared toward proving that a new product or technology doesn't do harm is dangerously close to requiring that a company or individual prove a negative—a logical impossibility. Nothing in life is risk-free; everything we do involves tradeoffs. We have come to take electricity for granted, recognizing how it has made life more comfortable—and safer—than our distant ancestors could ever have imagined. But electricity is dangerous; people get electrocuted. Had the precautionary principle been in force when it came along, it's doubtful electricity would ever have surmounted its regulatory hurdles.

In Europe, the precautionary principle is already being used to justify the European Commission's decision to bar the import of North American beef from cattle fed with growth hormones. The EC contends the growth hormones might cause endocrine disruption, a claim dismissed by a scientific panel convened by the World Trade Organization.

Similarly, the EC has invoked the precautionary principle to impede the sale of genetically modified food. Unable to demonstrate any harm that crops developed from gene-spliced plants could do, the EC's hostility to agricultural biotechnology could deny food to the world's hungry.

For more information...

WWW Research and commentary on the precautionary principle is available by fax through **PolicyBot**, The Heartland Institute's free online research service. Point your Web browser to **http://www.heartland.org**, click on the PolicyBot icon, and search for keywords precautionary principle.

Alternatively, search **PolicyBot** for these specific documents: **#2313124** Precautionary Tale (April 1999, 5pp.); **#0468402** The Precautionary Principle and the Proposed International Biosafety Protocol (Spring 2000, 18pp.); **#2313445** Risk Assessment v. The Precautionary Principle (March 2000, 10pp.); and **#0468403** Applying the Precautionary Principle to Genetically Modified Crops. (August 2000, 19pp.)

A campaign against life-saving technology

While the precautionary principle does not yet guide regulatory decisions in the United States, anti-progress environmental groups—including the Science and Environmental Health Network, Health Care Without Harm, and Greenpeace—are pushing for adoption of just such a scheme.

Trumpeting the precautionary principle, Health Care Without Harm has launched a nationwide campaign against medical devices such as blood bags, transfusion equipment, and intravenous tubing and bags. The group claims that phthalates, the chemicals used to make the bags and tubes softer, could leach into patients. Health Care Without Harm can't document a single case of a patient's being injured in this manner. In fact, the targeted devices have been used safely by hospitals for 40 years.

Not content with smearing perfectly safe products, these groups are now pushing for adoption of the precautionary principle at the state level, with efforts already underway in Massachusetts, Minnesota, and New Jersey. But when speculation trumps science, the public can only lose.

Bonner R. Cohen is a senior fellow at the Lexington Institute in Arlington, Virginia.

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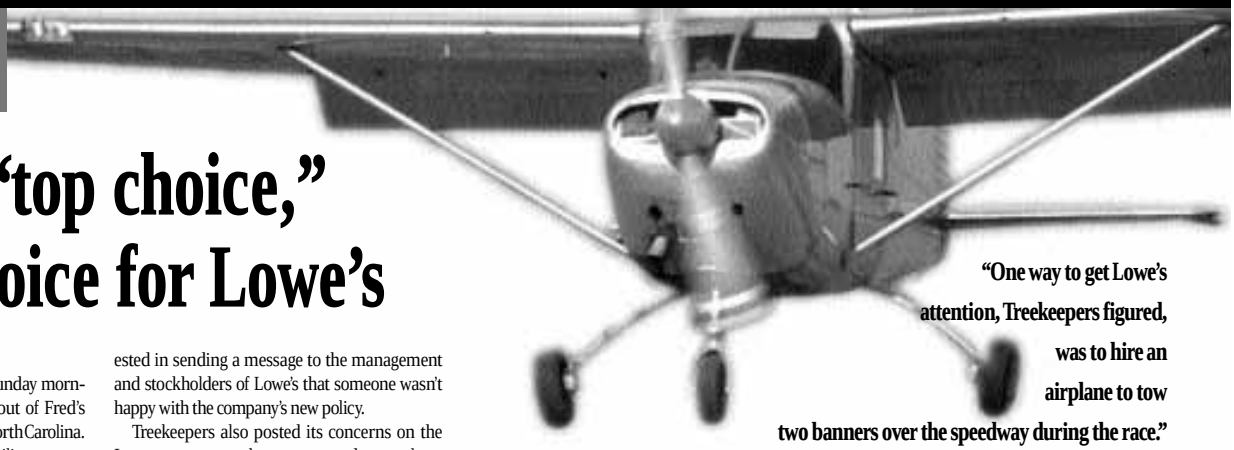
On the frontlines . . .

FSC not "top choice," wrong choice for Lowe's



"One way to get Lowe's attention, Treekeepers figured, was to hire an airplane to tow two banners over the speedway during the race."

BY MATT BENNETT

Long before the sun was up on Sunday morning, Fred Hardin and I pulled out of Fred's driveway headed toward Charlotte, North Carolina. Ours was an early morning ritual familiar to many NASCAR fans: It was race day. Only Fred and I weren't going to Lowe's Motor Speedway to watch the race, we were going to make a point.

On August 8, 2000, Lowe's Companies, Inc. announced its intention to buy only those wood products certified by the Forest Stewardship Council (FSC). Lowe's Vice President Mark Kauffman claimed that in formulating its policy, the company had "worked closely with environmental and scientific communities as well as our suppliers."

Forest products suppliers knew otherwise. Keith Argow, president of the National Woodland Owners Association, did meet with Lowe's and flatly told the company its new policy wouldn't work. Lowe's, however, preferred to take the advice of the Rainforest Action Network (RAN), the World Wildlife Fund (WWF), the Dogwood Alliance, and the World Resources Institute.

"Only 4 million acres of forest land in the U.S. carry FSC certification. By contrast, the Sustainable Forest Initiative (SFI), a competing certification program, has over 60 million acres under its program."

The Lowe's policy is important not just to the softwood lumber industry, but to hardwood suppliers as well. Though Lowe's sells only small quantities of hardwoods direct to the consumer, they sell lots of hardwood flooring and kitchen cabinets made from hardwoods.

Private landowners unite

Not content to allow anti-logging environmentalists drive forest products policy, a new grassroots organization formed to give a voice to the non-industrial private landowners and independent mill producers in the certification debate. That organization, treekeepers.org, decided someone needed to get the attention of Lowe's (and others considering similar actions), and suggest they make a place at the table for the private landowners who actually own the forests.

"If Lowe's doesn't want to do business with us, do we want to shop at Lowe's?"

Which brings me to why Fred and I were on our way to Charlotte.

One way to get Lowe's attention, Treekeepers figured, was to hire an airplane to tow two banners over the speedway during the race. Over 100,000 people saw banners that read "Lowe's/FSC Not Top Choice—Wrong Choice" and "Lowe's Imports Wood/Exports Jobs."

We knew race fans might not understand the point of the banners. But we really were more interested in sending a message to the management and stockholders of Lowe's that someone wasn't happy with the company's new policy.

Treekeepers also posted its concerns on the Internet at www.treekeepers.org, and news releases were sent to all the major media in the area. The Web site attracted nearly 500 hits in the first 24 hours. We clearly had someone's attention.

FSC fallacies

The Web site clearly identified the fallacies of Lowe's new policy:

- Only 4 million acres of forest land in the U.S. carry FSC certification. By contrast, the Sustainable Forest Initiative (SFI), a competing certification program, has over 60 million acres under its program. The simple law of supply and demand means Lowe's customers will pay more for wood products, and their choice of products could be limited.
- Moreover, FSC certification says nothing about the quality of the lumber itself. It is entirely possible that Lowe's customers will have to settle for lower-quality lumber than they are accustomed to.
- The new Lowe's policy unfairly implies that hundreds of thousands of forest land owners in this country are doing a poor job managing their forests because they don't obtain FSC certification. But FSC certification is expensive. Much of the land that currently carries FSC certification does so because foundation grants paid most or all of the cost. For example, FSC certification of 2.2 million acres of Pennsylvania state forests was entirely paid for by a grant from The Heinz Endowment.
- Lowe's also unfairly implies that non-certified forests are unsustainable. The company did not take the time to speak with landowners or to familiarize themselves with forest practices in the South: Company officials simply took the word of RAN, the Dogwood Alliance, and WWF.
- Lowe's has unfairly singled out wood products for a special environmental litmus test they do not require of the other products they sell. It is supremely ironic that FSC discriminates against the use of chemicals such as herbicides, fertilizer, and pesticides, while Lowe's is one of the country's biggest retailers of herbicides, fertilizer, and pesticides.
- Lowe's new policy is bad for consumers and bad for stockholders. Limiting itself to FSC-certified wood will likely result in higher prices and reduced choices for consumers. This in turn may force consumers to shop elsewhere, reduce store sales, and ultimately reduce shareholder equity.

Tilting at windmills?

Many other problematic aspects of Lowe's policy are detailed at www.treekeepers.org, and we also offer there our suggestions of how Lowe's can develop and implement a workable policy.

Our efforts may seem like tilting at windmills, but we don't look at it that way. It all comes down to a simple market-based question that non-FSC certified forest land owners and mill producers should be asking themselves: If Lowe's doesn't want to do business with us, do we want to shop at Lowe's?

Matt Bennett is chairman of treekeepers.org.

Bruce Babbitt becomes "wild and scenic" developer

BY JOHN FULTON LEWIS

The Clinton administration's Secretary of Interior and environmentalist icon, one-time Colorado Governor Bruce Babbitt, has changed both his career and its direction.

The 1990s' bane of private property owners nationwide and foe of the logging, mining, and ranching industries of the Western United States, Babbitt has a reputation as an environmental purist who fought to protect "wild and scenic" American public lands and opposed development of choice private holdings.

Now, he has declared himself to be a dedicated real estate developer of some of the most priceless and pristine scenic miles of the California coast.

A "shocking disclosure"

In mid-June, *Los Angeles Times* reporters Kenneth Weiss and Margaret Talev provided the "shocking disclosure" (to some environmental organizations) that Babbitt has taken on two projects with special sensitivity, in association with the Latham & Watkins law firm he joined earlier this year.

First, Babbitt is to help overcome environmental activist lawsuits and other roadblocks, erected since 1992, to the construction of 3,050 homes on property in rural Ventura County, known as the Ahmanson Ranch. The *L.A. Times*' reporters described the ranch as spreading "across one of Southern California's last expanses of hillsides not yet crowded by urban sprawl."

Second, Babbitt is to assist the Hearst Corporation in developing 83,000 acres of coastal tablelands around the late William Randolph Hearst's famous San Simeon Castle. The terrain is mostly wild coastline

"Babbitt's friends in the major environmental organizations are in some confusion as to how to deal with the Interior Secretary who . . . has now completely reversed his direction."

land near California's treasured scenic view of the Pacific Ocean at Big Sur.

The Hearst project is said to be a $200 million effort to clear permit approval and complete planning for providing choice private estate building sites. Involved are "83,000 acres of salt-sprayed table lands that step down from the Hearst Castle and span 18 miles of mostly wild undeveloped coast that forms the southern gateway to Big Sur."

Hearst firm spokesmen insist Babbitt was brought in to revise earlier plans for turning

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Klamath farmers defy feds

Seek relief from drought, Endangered Species Act rules

Farmers in Oregon's drought-stricken Klamath Basin celebrated Independence Day by repeatedly defying federal Bureau of Reclamation officials, diverting small streams of water from Upper Klamath Lake for their thirsting crops. Local authorities refused to intervene, and Bureau officials threatened to call in federal marshals and the FBI.

Klamath farmers rely on lake water to irrigate their crops and feed their livestock, but the Reclamation Bureau shut off the farmers' water in April in the interests of endangered salmon and suckerfish. The Bureau ruled the fish's rights to the water trumped those of the farmers, despite the government's prior agreement to supply the farmers with irrigation water.

The Independence Day water diversions were symbolic in nature, amounting to little more than a trickle from the lake. "It just appears to me that they are trying to save their lives," stated Klamath County sheriff Tim Evinger, explaining his refusal to intervene. "There were women and children at the headgates. It was a nonviolent situation."

Others were not so understanding. Wendell Wood of the Oregon Natural Resources Council characterized the civil disobedience "as a case of vandalism and sabotage, and we condemn it."

Protest leaders strengthened their resolve to defy the Bureau as their short-term legal options evaporated one by one. The U.S. Senate rebuffed an attempt by Senator Gordon Smith (R-Oregon) to temporarily lower lake levels three feet to save the farmers. Immediately thereafter, on July 13, Interior Secretary Gail Norton refused to convene a "God squad" of cabinet-level officials with the authority to set aside Bureau decisions enforcing the Endangered Species Act.

A group of farmers announced they had hired property rights law firm Marzulla & Marzulla to present a Fifth Amendment Takings claim in federal court. However, courtroom litigation may take years to resolve the issue.

Senator Smith observed that the U.S. Fish and Wildlife Service (USFWS) had previously released a plan with a series of recommendations for the recovery of the suckerfish. While prescribing Upper Klamath Lake's minimum level at 4137 feet above sea level, the plan called for the federal government to actively manage the lake with such programs as water aeration, removal of suckerfish predators, wetland rehabilitation projects, and enhancement of spawning habitats. After the government subsequently failed to act on the plan, it responded to current concerns over the suckerfish by raising the mandatory lake level to 4140 feet—effectively shutting off the water flow to the farmers who depend on the lake for irrigation and drinking water for their livestock.

"The people of the Klamath Basin are having their lives destroyed because a federal agency failed to take its own advice and do its job to recover fish."

Senator Gordon Smith (R-Oregon)

"The people of the Klamath Basin are having their lives destroyed because a federal agency failed to take its own advice and do its job to recover fish," stated Senator Smith. "Farmers are now being asked to pay for the government's inaction, while the suckerfish may be no better off in the end."

Added Smith, "The Endangered Species Act was never meant to rob people of their livelihoods; it was designed to guide the federal government's management of wildlife recovery efforts. But instead of actively managing as even the Fish and Wildlife Service said it should, it has chosen to blindly throw water at the suckerfish and deprive farm families of that same water without any guarantee of ultimate success."

The crowds attending the protests called on the federal government to amend the Endangered Species Act to take into consideration communities destroyed by its current enforcement. As July passed by, the crowds continued to grow, bringing increasing attention to the Act's rough edges as currently written.

"[Bruce Babbitt] has declared himself to be a dedicated real estate developer of some of the most priceless and pristine scenic miles of the California coast."

San Simeon acres into a resort complex. That proposal was rejected outright by the California Coastal Commission three years ago. The new objective, they say, is to follow a more environmentally friendly path to preserve much open space while allowing well-to-do buyers to share in the vistas of the prestigious San Simeon location.

Investigation in the works?

Throughout his years as Governor of Arizona and, especially, while serving in the Clinton Cabinet, Babbitt often had to fend off critics of his family's development of property along the approach to the Grand Canyon. At one point, in 1997-98, he publicly disassociated himself from the Babbitt family real estate enterprises after publicity focused on a possible conflict of interest for an Interior Secretary committed to prevent environmentally questionable development near the most famous National Park in his public lands domain.

Last year, Babbitt was instrumental in persuading President Clinton to declare hundreds of miles of the California coast as a National Monument, and thus largely off-limits to private development. Some environmentalists in California and politicians in Washington, DC—possibly for different reasons—are now examining the limits of that Monument designation to see whether or not it may have conveniently avoided the Ahmanson Ranch and San Simeon estates.

If a so-called "paper trail" were to suggest that Babbitt had a hand, while still in his Cabinet position, in isolating the properties of his new clients, Congress might be forced to investigate.

Meanwhile, Babbitt's friends in the major environmental organizations are in some confusion as to how to deal with the Interior Secretary who so recently represented a hard line on their behalf . . . and who has now completely reversed his direction.

John Fulton Lewis is executive editor of Alliance for America's Trumpet Call *newsletter and contributing editor to* Farm Press *and other newsletters.*

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Environmental protection through free-market principles

AN INTERVIEW WITH KATHLEEN BENEDETTO
BY JAMES TAYLOR

Kathleen Benedetto is program director of the National Wilderness Institute (NWI). Established in 1989, NWI promotes common sense, science-based environmental strategies that emphasize active resource management and a free-market approach to environmental issues including endangered species, ecosystems, biodiversity, and wetlands.

NWI accomplishes its mission through public education programs including an award-winning journal, a bulletin, original research, technical briefings, and testimony designed to enhance overall understanding of natural resource issues.

Benedetto worked as a professional exploration field geologist for more than 17 years, exploring minerals and fossil fuels on some of the most remote private and public lands in the Western United States. She serves on the executive committee of the National Grassroots ESA Coalition, which promotes incentive-based conservation of species; and the Alliance for America, representing rural communities on natural resource and conservation issues. She has represented the interests of women in mining as co-founder of the Women's Mining Coalition.

TAYLOR: What are the most important considerations in formulating a successful approach to environmental protection, and species protection in particular?

BENEDETTO: People are the most important resource. All environmental policy should be based on that idea. The inherent value of each individual is greater than the inherent value of any other resource.

Accordingly, the foremost measure of the quality of our environment is human health, safety, and wellbeing. A policy cannot be good for the environment if it is bad for people. The best judge of what is or is not desirable is the affected individual.

TAYLOR: What efforts has NWI undertaken to educate citizens about a market-oriented approach to environmental protection?

BENEDETTO: NWI bills itself as the "voice of reason on the environment."

NWI's publications—the *NWI Resource* and *Fresh Tracks*—and its Web site www.nwi.org are NWI's primary tools for educating the public.

Much of our focus over the past 11 years has been the Endangered Species Act and its lack of effectiveness in achieving the congressional mandate to recover federally listed threatened and endangered species.

NWI often uses the raw data buried in government reports and documents to evaluate the effectiveness of government programs. A good example is our publication "Conservation Under the Endangered Species Act: A Promise Broken."

The study took more than a year to complete. NWI staff reviewed recovery plans for all federally listed threatened and endangered species. The question NWI was looking to answer is: "Have any listed species been recovered as a result of regulations promulgated under the ESA?" The conclusion after reviewing the recovery plans was no.

Signature species that have been downlisted or delisted, such as the bald eagle and the peregrine falcon, have recovered due to processes set in place prior to the enactment of the ESA. Peregrine falcons were recovered through a private conservation effort—a captive-breeding program initiated and carried out by the Peregrine Fund. Laws protecting eagles and other birds of prey were enacted prior to the ESA. Other factors contributing to the recovery of the eagle were the ban on DDT and a change in public attitude towards predators.

TAYLOR: Is the government capable of effectively balancing environmental interests outside of free-market considerations?

BENEDETTO: I'm not sure "balance" can be achieved on environmental issues.

"The foremost measure of the quality of our environment is human health, safety, and wellbeing. A policy cannot be good for the environment if it is bad for people."

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For more information...

WWW In 1996, NWI published Individuals, Liberty and the Environment: A Distinctly American Conservation Ethic (ACE), which set forth eight principles illustrating how the environment benefits more from a system of individual liberty, private property, and free markets than a system based on statism. The ACE report can be downloaded from NWI's **Web site at www.nwi.org.**

Cosmetic considerations and feelings—not environmental quality—have become the driving force in environmental controversy. Those are difficult criteria to "balance" when you want to put a mine into production, harvest timber, or build a power plant.

Many people, including free-market environmentalists, look at those activities as damaging to the environment, rather than looking at the overwhelming positive impact they have on the human environment. Often what is perceived as damaging are the cosmetic changes, albeit some of them relatively permanent, to the landscape.

The term "balance" can be troubling because too often it is assumed that economically motivated private actions are environmentally harmful and must be countered by environmentally beneficial collectivist restrictions. Everything about that equation is wrong. In fact, prosperity is good for the environment and poverty bad, markets reward efficiency and governments inefficiency, etc.

TAYLOR: What do you consider to be the strengths and weaknesses of the Endangered Species Act?

BENEDETTO: The strength of the ESA is that it gives power and control to government bureaucrats and serves to enlarge the federal estate. The weakness is that it drives a wedge between people and species, putting both at risk.

TAYLOR: Is there much chance for success in the movement to modify the Endangered Species Act?

BENEDETTO: With work . . . a lot of work . . . some modifications may be possible. There are many factors converging that may serve to improve the climate and broaden the constituency supporting changes to the ESA.

TAYLOR: How does NWI determine whether or not it will intervene on behalf of protecting the environment?

BENEDETTO: Let me give you an example.

NWI's decision to file a complaint against federal agencies for violating the ESA in the operation of the Washington Aqueduct and in the construction of the Woodrow Wilson Bridge was made after more than a year of research that included a scholarly review of the available literature, field studies, and an aggressive FOIA (Freedom of Information Act) program.

During the summer of 1999, in an effort to prove the effectiveness of the ESA, President Clinton, in a ceremony at the White House, announced that the bald eagle would be downlisted from endangered to threatened. Later that same summer Secretary Babbitt delisted the peregrine falcon.

NWI staff had observed bald eagles and peregrine falcons in Old Town Alexandria, along the Potomac River, and elsewhere in the metropolitan DC area. The Wilson Bridge construction project was and is continuously in the news. Several lawsuits have been filed to stop the project, some on procedural issues and others for environmental reasons, but there was never any discussion of the impact of the construction project with respect to endangered species.

After NWI's year-long review of the Wilson Bridge project and other federal projects in the DC area it became clear the federal agencies were violating the ESA in several instances, in a way that would not be tolerated in other jurisdictions.

It was also clear to NWI that the Army Corps of Engineers' practice of dumping millions of pounds of contaminated sediment into the Potomac River would not be acceptable to anyone who knew about it.

TAYLOR: NWI is currently contesting that Corps practice. How are you faring in your efforts?

"[T]oo often it is assumed that economically motivated private actions are environmentally harmful and must be countered by environmentally beneficial collectivist restrictions."

BENEDETTO: At a recent hearing on pretrial motions, Judge Thomas Hogan rejected the government's motion to dismiss the case. Although he didn't grant NWI's request for a preliminary injunction, he warned the Corps and other federal defendants that if they do not resolve the issue of whether the challenged discharges adversely affect endangered species, ". . . in the near future, plaintiffs may in fact be able to meet their burden of establishing irreparable injury."

Hogan also advised the Corps, "plaintiff could ultimately be successful in this litigation and thus [the Court] advises defendants to reconsider these and other alternatives to the present arrangement."

TAYLOR: In addition to the Corps' dumping in the Potomac River, what other environmental issues is NWI currently monitoring?

BENEDETTO: Most of NWI's attention is focused on the ESA lawsuit at this time. At the request of some congressional offices, NWI has also worked on staff and Member briefings on the "Wildlands Project."

Last year, NWI uncovered mismanagement and misuse of funds within the Federal Aid program managed by the U.S. Fish and Wildlife Service. Legislation to remedy the situation passed the House by a vote of 423-2, and it passed the Senate by unanimous consent. President Clinton signed the bill in October 2000.

EPA criticized for selective enforcement

The Environmental Protection Agency has come under fire from politicians and environmentalists for selectively enforcing EPA regulations. At issue are charges that the agency has vigorously enforced prohibitions in rural America while turning a blind eye to blatant violations inside the politically connected Washington beltway.

"The EPA speaks out of both sides of its mouth," stated House Majority Whip Tom DeLay (R-Texas). "While zealously enforcing extremist environmental regulations against average Americans in the West, the EPA turns a blind eye to dumping pollution through a Washington, D.C. national park."

DeLay was referring to large amounts of toxic chemicals and impurities being dumped into the C&O Canal National Historic Park and into the Potomac, an American Heritage River.

"The EPA doesn't stop the practice because of political pressure brought by affluent Northwest Washington residents who don't want to be inconvenienced by a few dump trucks rumbling through their neighborhoods," asserted Rob Gordon, director of the National Wilderness Institute. "The sediment is laced with chemicals toxic to endangered sturgeon and their eggs."

The Army Corps of Engineers currently diverts water from the Potomac, treats it with chemicals to purify it for drinking, and then sends the treated water to sedimentation basins. After the treated drinking water is piped out, sediments and chemicals that are toxic to fish remain in the basins and are flushed back into the Potomac. The National Wilderness Institute has sued EPA for not putting an end to the practice.

"The suit is blowing the whistle by saying if you apply the law in one region in the country, you must apply it the same way in others," said Senator Larry Craig (R-Idaho).

Added Representative George Radanovich (R-California), "We want to see the Endangered Species Act enforced right here in Washington, where the law was passed."

Republican California Congressman Wally Herger asserted that the dumping policy was a holdover from Clinton patronage. "While the Clinton administration and local politicians courted the special favor of an affluent area in Washington, D.C., the Endangered Species Act and the interests of an endangered species were subverted."

NWI's Gordon noted the toxic dumping has continued since residents from politically connected Georgetown drafted a letter complaining that enforcement of the Endangered Species Act (ESA) would inconvenience them and drive down their property values.

According to the letter, enforcement of the ESA against Potomac dumping would, "if strictly interpreted, force the Washington Aqueduct Authority, which processes our drinking water, to stop discharge of sediments back into the Potomac River. The results would be higher water rates for customers." The letter further complained that trucks "would have to pass through residential neighborhoods," causing noise and disturbance "generally reducing the quality of living in our neighborhoods, and thus the value of homes."

According to the National Park Service it has "a general mandate to provide for protection of resources within park lands" and another law specifically directs the NPS to "prevent pollution of Rock Creek and the Potomac and Anacostia Rivers." Despite this, the Army Corps of Engineers dumps millions of pounds of toxic sludge through C&O Canal National Historic Park. The Corps discharges are piped through the C&O Canal National Historic Park and Rock Creek National Park in at least 6 locations. Pictured above is Outfall #3 upstream from Georgetown, where National Park officials reported a "black, foul smelling" discharge that left dead eels and other fish. *Photo/ NWI.*

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PERC continued from page 8

policy similar to the Audubon Society's Rainey Preserve would similarly advance the goals of environmental protection, PERC proposes. Revenues generated from recreational fees paid by visitors or economic development fees would ensure that funding shortages endemic under the current regulatory framework would no longer deprive national monuments of necessary maintenance and upkeep. Utilizing the free market, national monument preservation can be characterized by mutual cooperation rather than government prohibitions.

Grazing permits

"For over a century, conflicting interests have battled over the use and management of the millions of acres of grazing land controlled by the Bureau of Land Management and the United States Forest Service," PERC asserts. The use and price of the grazing land is currently more a product of political pressure than economic and environmental factors.

As a result, "Today's grazing practices affect the biological health and long-term productivity of the land resource. Reform must begin by recognizing that resources are better managed if the decision makers bear all the costs and receive all the benefits of their actions."

To facilitate responsible stewardship of grazing land, PERC proposes the government sell the permanent property rights to the current permit holder. The price of the property rights would reflect the future value of the grazing fees, and title to the property would clearly define the ecological requirements for maintaining the right, such as the conditions for access, fire and weed control, livestock predators, water rights, and other nongrazing aspects. Penalties for not following the permit conditions would be established.

Private ownership would result in landowners making rational economic choices on whether or not to graze domestic livestock, while protecting environmental values spelled out in the sale documents. The costs of meeting expected ecological considerations would be reflected in the cost of the property, and the landowner would have financial incentives to efficiently meet environmental considerations. Grazing and other nongrazing uses would therefore be determined by free-market forces rather than arbitrary dictates of a federal agency.

For more information...

WWW Copies of "Conservative Conservation: Proposals for the New Century" can be obtained through PERC at 888/406-9532, and at their Web site at **www.perc.org**.

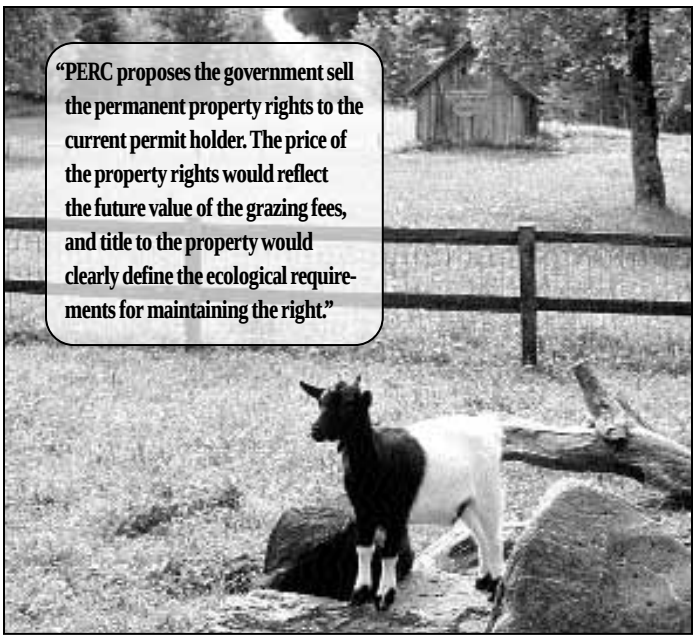
Recreation fees

"We propose that the federal 'Fee Demonstration Program' be made permanent and expanded to all federal lands that are used for recreation," proposes PERC. The Center notes that the fee demonstration program, which Congress enacted in 1996, is a good example of the success of local management and user financing of federal lands.

The fee demonstration program allows federal officials to charge user and visitor fees and retain 80 percent of the revenue for local management. Local managers have discretion to use the fees as they see fit. The Bureau of Land Management, Fish and Wildlife Service, Forest Service, and National Park Service currently participate in the program.

The program works because local managers are more knowledgeable about park popularity and upkeep needs than Congress, which had previously held the purse strings. For example, PERC notes that in 1996 Yellowstone park managers closed the popular Norris campground and two museums to save $70,000 in operating expenses—even though the campground alone brought in $116,000 in revenues the previous year. "The managers ignored the revenues because they went to the national treasury, not to the park for use in Yellowstone."

With a permanent fee demonstration program in place, "managers would begin to design fee structures that reduce congestion and would develop attractive pricing options, including those for visitors hiking through land managed by different agencies. Expanding the program to include all federal recreation areas would motivate managers to give resource stewardship priority over politics and to keep prices low while still increasing revenues."


"PERC proposes the government sell the permanent property rights to the current permit holder. The price of the property rights would reflect the future value of the grazing fees, and title to the property would clearly define the ecological requirements for maintaining the right."

Water management

Water shortages are a recurring problem in much of the nation, observes PERC. Causes include drought, over-pumping of aquifers, expanding urban demands, and endangered species mandates. Exacerbating the problem is the fact the market is not allowed to function well.

Government has typically subsidized water prices, leading to an artificially high demand. "Continued federal subsidies, however, won't solve water problems. In fact, they have created many." Artificially high demand strains water supplies and invariably causes environmental problems, PERC asserts.

To solve this problem, PERC proposes the federal government eliminate subsidies for water projects and transfer water projects to private ownership. Private water markets reflecting the true economic and ecological costs of water usage would restore incentives for consumers to conserve water and utilize it efficiently. Not only would the market ensure efficient water usage, the resultant conservation and increased stream flows would benefit endangered species and water-dependent ecological interests.

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The Heartland Institute's 17th Anniversary Benefit Dinner
October 26, 2001 ~ Hilton Chicago Hotel

Linda Chavez:

"Still Fighting for the American Dream"

Linda Chavez is president of the Center for Equal Opportunity, a non-profit public policy research organization in Washington, DC. She also writes a weekly syndicated column that appears in newspapers across the country (including the *Chicago Sun-Times*), and is a political analyst for FOX News Channel.

Chavez is the author of *Out of the Barrio: Toward a New Politics of Hispanic Assimilation* (Basic Books, 1991), which the *Denver Post* said "should explode the stereotypes about Hispanics that have clouded the minds of patronizing liberals and xenophobic conservatives alike." *The Washington Post* describes Chavez as one of "a new generation of intellectuals [seeking] to question the orthodoxies of the civil rights establishment." Chavez is well known for her syndicated newspaper column and writings for other publications, including the *Wall Street Journal*, *The New Republic*, the *Washington Post*, and *Reader's Digest*.

Mark Skousen:

"The Vindication of Adam Smith"

Mark Skousen is an investment advisor, author, and dynamic world-renowned speaker. A self-described "almost idealistic" proponent of liberty and political freedom with a Ph.D. in economics, Skousen is actively involved in some of the most prestigious free-market and liberty think tanks in the world.

Skousen is the author of many books, including *The Making of Modern Economics* (M.E. Sharpe Publishers, 2001), *Economic Logic* (Skousen Publishing, Inc., 2000), *Economics of a Pure Gold Standard* (Foundation for Economic Education, 1997), and *Complete Guide to Financial Privacy* (Simon & Schuster, 1983).

Skousen has built a reputation for accurately identifying not only economic and political trends, but also the right investments for the times. *Mark Skousen's Forecasts & Strategies* has grown to become one of the largest financial newsletters in the country.

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